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BY

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Let observation, with extensive view,
Survey mankind from China to Peru.
SAMUEL JOHNSON.

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Roberts, Dr. O. W.
Rotwand, J.
Royal Empire Society.
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Royal Institute of International Affairs.
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Russell Sage Foundation Library (per F. W. Faxon Co.).
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South Africa, Library of Parliament (per Walker Bros.).
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Travancore, Advocate General.
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Trnka, J.

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ANNUAL REPORT

THE year 1943 has been one of recovery and stabilization of the work of the Society. The building in which, through the kindness of Sir Gerald Chadwick Healey, the Society now has its office at 28, Essex Street, W.C.2, has hitherto happily escaped damage. A considerable number of communications are still sent to the former addresses and members are asked to note the change.

During the year the *Review of Legislation* of 1941 and 1942 was published on a comprehensive scale in one volume containing as much as four normal parts in peace-time. Before the end of the year there was also in the printer's hands a double number of the *Journal,* though it was not actually sent out to subscribers until early in 1944.

The Committee desire to express their most grateful appreciation of the way in which contributors in all parts of the Empire have sent in their summaries for inclusion in the *Review of Legislation.* It is not too much to say that this piece of work has actually been accomplished with more thoroughness than in times of peace. In that fact may perhaps be seen evidence of the greater realization of the corporate unity of the Empire which has been so conspicuous in other departments of life.

Arrears of subscriptions have been paid up and the Committee are particularly gratified to note the number of subscriptions paid in advance.

It is deserving of notice that the "Great Jurists of the World," containing a series of articles originally published in the Society's *Journal,* has had a steady sale and the edition is now exhausted.

The Committee are grateful for the continuance of the grants made by the American Bar Association, the Canadian Bar Association, the Governments of Fiji and the Gold Coast and the Law Society.

Although the balance at the end of the year was largely due to the fact that the printer's account for the number sent out just after its termination had not been rendered, the financial position on the whole is satisfactory.

The Committee have to regret the loss of Sir Kenneth Poyser, who had always taken a sympathetic interest in the work of the Society, and, since the end of the year, of Sir Norman Hill, who was for many years a member of the Council as well as of the Executive Committee.

The additions which have been made to the membership, however, enable the Committee to look forward with confidence to the continuance of the Society's work, which, in an increasing measure, is valued within the Empire as well as elsewhere.

The Committee cannot conclude their Report without taking note of the fact that Mr. C. E. A. Bedwell has now completed the thirtieth year of his association with the work of the Society. They realize that it is in large measure due to his indefatigable labours, especially in connection with the production of the *Journal,* that the Society has maintained so high a level of success and usefulness during the past three decades, notwithstanding all the difficulties occasioned by two World Wars. It is only fitting that the Society should take this opportunity of expressing its gratitude to one who has served it so well and its hope that he may long continue to promote its welfare.

SOCIETY OF COMPARATIVE LEGISLATION

Dr. RECEIPTS AND PAYMENTS ACCOUNT FOR THE YEAR ENDING DECEMBER 31st, 1943 **Cr.**

	£ s. d.	£ s. d.
To Subscriptions :		
General	360 18 2	
Government	117 3 3	
		478 1 5
,, Grants :		
Law Society	21 0 0	
Canadian Bar Association	11 3 9	
Gold Coast	6 0 0	
Fiji Government	10 0 0	
American Bar Association	10 0 0	
		58 3 9
,, Sale of *Journals*, Back Numbers, Reprints, etc.	41 9 4	
Less Cost of Reprints	2 2 0	
		39 7 4
,, Interest on 3% Defence Bonds		6 0 0
,, Subscriptions in arrears paid during 1943		74 19 6
,, Subscriptions in advance paid during 1943		88 5 7
,, Sale of " Great Jurists of the World "		3 11 10
,, Cash at January 1st, 1943 :		
At Bank	279 4 4	
In Hand	2 0 4	
		281 4 8
		£1,029 14 1

	£ s. d.	£ s. d.
By Publication of *Journal* :		
Printing—vol. xxiv, pt. ii.	77 10 10	
vol. xxv pts. i. and ii.	315 14 3	
Postal Wrappers	4 18 10	
Paper for Journal	18 17 3	
		417 1 2
,, Salary of Clerk, including Income Tax		146 13 4
,, Rent of Office		50 0 0
,, General Expenditure		24 1 8
,, Stationery		7 12 9
,, Audit of Accounts		3 3 0
,, War Risk Insurance of Stock		4 6 9
,, Cash at December 31st, 1943 :		
At Bank	371 18 1	
In Hand	4 17 4	
		376 15 5
		£1,029 14 1

We have examined the above Receipts and Payments Account with the Books and Vouchers, and hereby certify that it agrees therewith. We have verified the Bank Balance and also the investment of £200 3% Defence Bonds.

LONDON : 48, Copthall Avenue, E.C.2
February 22nd, 1944.

CASH, STONE & CO.,
Chartered Accountants.

INTRODUCTION

Contributed by THE EDITOR

THE collection of reports of legislation from all parts of the Empire is no mean test of the degree of mastery of the seas possessed by the Allies. We are able in this volume to present our readers with a review of Empire legislation not quite but not far from complete. Apart from the Far Eastern territories temporarily in enemy occupation, and the Channel Islands, very soon we hope to recover their liberty, we have to postpone publication, mainly from local causes, only of reviews from Manitoba, New South Wales, Tasmania, Western Australia, Union of South Africa (Central Legislature), Fiji, St. Helena, Jamaica, Trinidad and Palestine. On the other hand, we are able to present and to bring up to date the reviews for other territories unavoidably postponed in our Review of Legislation for 1941 issued last year; such as South Australia, Cape Province, Natal, Southern Rhodesia, Assam, Orissa and Sind. In the case of a few, such as Gilbert and Ellice Isles and the Solomon Islands Protectorate, we are at length able to present reviews covering three years, 1940, 1941 and 1942.

Striking experiments in Social legislation are unlikely to be made in this time of stress and trial. Throughout the Empire 1942 witnessed an increase of war effort, a stiffening of resistance which expressed a resolute determination to succeed, encouraged by the beginning of the preliminary successes which marked the autumn. In Great Britain a series of Acts dealt with National Service and with the relations of Visiting Forces of the Allies with the local Government (pp. 3, 4). Legislation of this kind, though of great interest, is of temporary importance. We may also mention the legislation directing the calling up of men from 18 to 55 in British Guiana (p. 123) and Tanganyika (p. 122), the special legislation of 1941 in Southern Rhodesia designed to disfranchise temporarily certain shirkers of military service (p. 95), as well as some members of H.M. Forces only temporarily in residence, followed by further provisions in 1942 aimed at another class of shirkers and reviving for their discouragement the penalty of banishment (p. 96). Noteworthy also is the Canadian legislation following the result of the plebiscite of April 27, 1942 (p. 19). War Risks and War Damage were the subject of legislation in the United Kingdom (pp. 6, 7), Dominion of Canada (p. 20), British India (p. 97), Ceylon (p. 114). Note the establishment of a fund common to E. African territories in Kenya, Tanganyika and Uganda (p. 122), etc. In the West Indies the agreement between the British Government and the U.S.A. as to leases of Air Bases was implemented (pp. 125, 127), Mauritius imposed a special export duty on the sugar crop to form a Planters' gift to H.M. Government in aid of the prosecution of the war (p. 117), and the enlistment and training of native levies and bodies of Home Guard were authorized in numerous areas (*e.g.*, Gilbert and Ellice Islands (1941) (p. 77); Fanning Island (1942) (p. 77); New Hebrides (p. 85); Tonga (p. 83); Aden (p. 116); Gambia (p. 117); Gold Coast (p. 118), etc.).

The British Constitution is apt to leave the decision of ultimate questions to Faith and Hope—the doctrine that Parliament can do anything rests upon the belief that any legal attempt to control it will, in the last resort, be futile, but that it is much more likely, if left alone, to control itself reasonably. When, therefore, it chooses to prolong its own existence, experience shows that the exercise of so transcendent a power justifies in practice the faith which we repose in its public spirit (p. 1). The Parliament of N. Ireland has followed suit (p. 16). Another constitutional question once regarded as of primary importance—membership of the House of Commons by " placemen "—was further

affected by new legislation, the import of which, otherwise obscure, is lucidly explained by Sir Cecil Carr (pp. 3, 4). No serious constitutional changes appear to have been made within the Empire in 1942. Eire has made provision for the taking of a Referendum, which to many of us seems to be the quintessence of mass production in politics (p. 18). However, the Canadian plebiscite on National Service had at least a satisfactory issue (p. 19).

The adoption of Sections 2–6 of the Statutes of Westminster by the Australian Commonwealth (p. 43) is noteworthy. Mr. Woinarski reports the acceptance by Victoria of the resolutions of the Canberra Conference of November, 1942, referring certain matters to the Commonwealth Parliament until the expiration of five years after Australia ceases to be engaged in hostilities. He tells us (pp. 71, 72) that Tasmania alone has refused to enact the same or substantially the same legislation. Recent information indicates that the proposals are having a more troubled passage than this report might lead us to suppose and that a Referendum on the subject is now in progress.[1] In India the fact that Proclamations under s. 93 of the Government of India Act, 1935, have been issued in Bombay, Bihar, Assam, North-Western Province and Orissa is a melancholy reminder of political unrest and partly explains the comparative poverty of Indian legislation in 1942. In Ceylon, the State Council has after eleven years of waiting provided itself with privileges. These include freedom of speech and protection of persons who publish matter under the instructions of the Council (p. 115). In Queensland the contingent vote has been abolished at elections for members of the State Parliament. Mr. Broadbent explains what this contingent vote was and how it worked. It was, in effect, a second option (p. 58).

In the sphere of *Finance,* 1942, the United Kingdom suffered cheerfully and hopefully further tax increases upon luxuries—beer, wine, tobacco and entertainments. S. 34 of the Finance Act is of special interest. From the point of view of established law the decision of the Court of Appeal in *R* v. *Barker* was, we must assume, unimpeachable, but its inconvenience in established practice is indubitable. The English law of Evidence is noted for the anxious care which it takes to protect suspected persons. We prefer that the guilty should escape rather than that the innocent should suffer. Certainly the guilty do sometimes escape. In this particular case, however, the legislature has wisely now provided that a useful practice may be continued (p. 6).

The Canadian Dominion-Provincial Taxation Agreement Act (p. 22 *c.f.* Alberta, p. 24, etc.), leaving the Dominion Government temporarily in exclusive command of personal income and corporation taxes is important and perhaps prophetic. Similar self denials on the part of the Provincial Government in the interests of financial unity are reported from Australia (p. 42). Relief in respect of Death Duties where death has occurred on active service was extended or granted in several additional territories, *e.g.*, Queensland (p. 56), South Australia (p. 68), Gibraltar (p. 128), Tanganyika (p. 122), Uganda (p. 123).

Local Government, which is at the moment attracting attention and causing some prospective perturbation at home, was the subject of considerable legislation in 1942. The Belfast County Borough Administration Act appears to place the Minister of Home Affairs and Administrations appointed by him in a position of authority. The measure is experimental only (p. 10). In Queensland a Director of Local Government is appointed, charged with local government administration, and provisions were enacted designed to control unnecessary expenditure (p. 60). In the Gilbert and Ellice Islands a new Ordinance (1941) provides for the administration of Native Affairs by Native Governments (p. 76). In Cape Province, Mr. Pienaar tells us that " as usual " the laws relating to local government were amended. The powers of local boards are extended to an important degree, the Legislature being " no doubt " wearied of

[1] See more fully *Jour. Comp. Leg.*, Third Series, vol. XXV, Pts. III and IV, at pp. 14 ff. The Referendum has negatived the proposal.

granting annual piecemeal instalments (p. 85). This was in 1941, but in 1942 amendments again had to be undertaken. One of the new provisions exempts air-raid shelters from rates as long as the war lasts. It is surprising that these constructions, so important in England, should be considered requisite at the Cape.

In Natal, the law relating to Local Government was consolidated (p. 88), and in the Orange Free State a new Local Government Amendment Ordinance was enacted of which Mr. Gray gives an interesting account (pp. 88–9). Amendment of local government law was also made in Transvaal (p. 90).

Post-War Rehabilitation and preparation for the post-war world were already in 1942 the concern of our legislators. A Veterans' Land Act and a Vocational Training Co-ordination Act were enacted in Canada (pp. 20, 21) *c.f.* British Columbia (p. 28). In many territories steps were taken with a view to agricultural and industrial development, as, for example, in South Australia (p. 63), in S. Rhodesia, where a Board was established to make recommendations for conservation and use of natural resources (p. 92), and a new Act deals in detail with land apportionment as between natives and Europeans, having as one of the objects the elimination of the absentee European landlord who farms his land by means of native squatters who pay him rent (pp. 93–4), in Sierra Leone, where provision was made for conservation and better utilization of water supplies (p. 119), and British India, with special reference to the coffee industry (p. 100). Schemes for the destruction of vermin in N. Ireland are to be financed and apply in the first instance to foxes. The ghost of Mr. Jorrocks may well haunt the beds of N. Irish legislators (p. 12). Newfoundland has established an Industrial Development Board (p. 39), and in Southern Rhodesia corporations initially financed by Government are created to take charge of the infant iron and steel industry and the cotton industry (p. 96). British Guiana and Falkland Islands have created Labour Advisory Boards with a view to settlement of labour disputes, and in British Guiana further legislation is designed to prevent the dislocation of essential services by lock-outs and strikes (pp. 123, 124).

Trade and Professional Organization has been assisted or regulated from many points of view. Mr. Broadbent gives us a detailed account of the Queensland Companies' Amending Acts; the most important changes concern the facilities for obtaining an investigation of the affairs of a company. The law relating to companies incorporated outside the State has also been remodelled and provisions made with a view to discourage share-hawking (pp. 53, 55). In the same State a new law more suitable for modern business now regulates the registration of Firms (pp. 55, 56). Turning to special trades and professions, a South Australian law may be noted which, while reducing as a war measure the length of the period of training of pharmaceutical chemists, forbids the extension of chain store pharmacists; the use of trade names in connection with the business of pharmacy is also prohibited (p. 67). An odd contradiction of legislation as to the Ice Cream Industry was resolved in Northern Ireland (p. 13). A new Australian law regulating Broadcasting provides that at least one of the five Commissioners must be a woman (p. 42). But why not that one must be a man? "Agronomes," *i.e.*, Agricultural scientists, have been incorporated in Quebec (p. 36). In New Zealand fresh provisions have been made as to the admission of solicitors to the Bar. These, we are told by Mr. Christie, are more elastic than those which they replace and permit of individual cases being dealt with on their merits (p. 74), a hint which our own Inns of Court might judiciously take to heart. In Victoria new provisions have been made to reassure clients who trust money or securities to their solicitors (p. 69). In Victoria also persons engaged in the occupation of dietetics—curiously called "dietitians"—are brought under control. Unregistered persons are prohibited from practising "consultant dietetics" as contrasted with "constitutional dietetics" and registered dietitians must practise under their own name. The Act does not

apply to medical practitioners and dentists nor, save in part, to nurses, mothercraft nurses and domestic science practitioners (p. 71). Land surveyors are also now regulated by a new Act (*ibid*). The sale of patent medicines requires control at the antipodes as at home, and both in Victoria (p. 70) and New Zealand (p. 73) new provisions have been made. Those in New Zealand deal primarily with Medical Advertisements brought now under the control of a Board.

Social legislation for the benefit of the employed is represented by the Agricultural Wages (Flax Workers) Act of Northern Ireland (p. 12), the important Victorian Act limiting the age of coal miners and providing pensions (p. 70 *c.f.* Queensland, p. 61) and provisions in Newfoundland controlling shop hours and working conditions (p. 40). Shop legislation, replacing earlier legislation is reported from St. Vincent (p. 127), as also from St. Christopher and Nevis (p. 126), Mauritius (p. 117) and Cyprus (p. 128). In St. Vincent, again, a new enactment repeals earlier provisions and authorizes the creation of a Department of Labour with a Labour Commissioner to secure a minimum wage (p. 127).

In Nyasaland the employment of children under 12 is prohibited and that of young persons regulated (p. 121). Workmen's Compensation has been extended or introduced in several areas, *e.g.*, Saskatchewan (p. 39), S. Rhodesia (pp. 91–2) under a new law which contains novel features, of which Mr. Morton gives an interesting account, Br. Honduras (p. 124), Cyprus (p. 129), where the extensions are general though not effective till brought into operation by the Governor.

A few Laws relating to *Child Welfare* are reported in 1942. In Northern Ireland an Act gives effect to the report of a Home Office Committee recommending the appointment of Children's guardians to sit with Courts of summary jurisdiction in appropriate cases though not strictly members of the Court (pp. 14, 15). South Australia (1941) instituted juvenile courts on familiar lines and raised the age of criminal responsibility to eight (p. 64). The Education (Scotland) Act of the United Kingdom is concerned with the nutrition and clothing of children (p. 6). In Nova Scotia the Province was authorized to subsidize the Childrens' Aid Societies, and both in that province (p. 30) and in Alberta the law relating to education was amended (pp. 27, 30). Newfoundland appears to have made school attendances compulsory between the ages of 7 and 14 and to have forbidden the employment of children to whom this Act applies (pp. 40, 41). In Nova Scotia mothers' allowances were extended to adopting mothers (p. 31). Quebec (p. 34) now permits all qualified women and not merely widows and spinsters to vote in school matters. The previous exclusion of married women was certainly bizarre. In a wider sphere—that of University education, the establishment of the University of Ceylon (p. 116) is noteworthy. The seat is in or near Kandy and the constitution is based on that of an English Provincial University. Our correspondent, Dr. Ivor Jennings, well known in home academic legal circles, is the Vice-Chancellor, and we take this opportunity of tendering to Dr. Jennings and his staff our congratulations and good wishes. In Alberta a consolidation of the University Acts with amendments is reported (pp. 24, 25). The controlling bodies appear to be numerous. There is a Board of Governors, also a Senate, a General Faculty Council and a Deans' Council. In addition to these, there is now to be a Business Manager or Comptroller. In South Australia the University of Adelaide is empowered to appoint a full-time salaried Vice-Chancellor (p. 69).

Criminal Law was in 1942 the subject of a few changes. Hawking of securities was further controlled in Saskatchwan (p. 38), black marketing declared an offence in the Australian Commonwealth (p. 43), specially enhanced penalties for sabotage, looting and the like provided by the Indian Central Legislature which also provided for the imposition of collective fines in areas where offences were

committed affecting defence (p. 97). The penalty imposed in the Punjab on a woman singing or dancing in a Muslim shrine (p. 108) has local interest; unseemly conduct in a place of worship at home is equally reprehensible.

Legislation for the punishment of Sedition was enacted in the Gilbert and Ellice Islands (p. 75) in 1940 and also in the Solomon Islands Protectorate (p. 78), where further, in 1941, provision was made as to dangerous drugs and previous legislation as to control of arms and ammunition was consolidated. In Tonga trading in prostitution and soliciting were made criminal (p. 83). It is a little difficult to seize the precise import of the 1941 legislation in the Gilbert and Ellice Islands controlling the possession or consumption of Sour Toddy, but its purpose is clear; henceforth no one under 25 may drink Sour Toddy and persons over 25 must first obtain a licence from an Administrative Officer, whose power to give a licence is further limited (p. 76).

Motorists received in 1942 less attention than they deserved; possibly other causes of mortality attracted attention to the neglect of this persistent cause. Nova Scotia indeed, but probably in vain, decreed that 40 miles an hour was "an absolute maximum" (p. 31). So also Quebec (p. 35). In Bermuda, where not long since no motors were allowed, doctors may now use them (p. 41).

St. Lucia has abolished corporal punishment except for juveniles, offences against prison discipline and against certain articles of the code. Conditions as to its infliction when allowed are laid down (p. 126). In Northern Rhodesia an amendment of the prison procedure code enables a person accused of a minor offence to escape appearance in Court by depositing or giving security for money (p. 90). Similar legislation already exists in Southern Rhodesia.

A few laws of special interest on varied subjects should also be noted. In Queensland the *Patriotic Funds* Law enacted in 1916 was amended in 1939 and a new consolidating statute was passed in 1942. Of this Mr. Broadbent gives a full account which is worthy of notice (pp. 48, 49). Another enactment in Queensland apparently important but somewhat puzzling is that which regulates the sale of goods by "*Group Selling.*" A "Group Sale" is defined in the Act; the buyer is or may be entitled to be included in a group of buyers, some one or more of whom may be given a personal benefit or advantage. The precise operation of this method of sale is not very clear, but it appears to lead to abuses which it is the object of this enactment to counteract (pp. 51, 52).

The Commissioners on Uniform Legislation in Canada made a recommendation that the law of evidence should be amended by the admission in evidence, subject to conditions, of *Photographic prints of documents* which had been destroyed or lost since the films were made. Legislation in conformity with this recommendation is stated to have been passed and is reported on pages 22 (Dominion Parliament), British Columbia (28), Ontario (32) and Prince Edward Island (33).

It is interesting to note that the provisions of s. 184 of the British Law of Property Act, 1925, as to the presumed order of deaths in a disaster which has been so generally adopted in Canada (see pages 68, 71, 73, 75, 77 of our Review of Empire Legislation, 1940–1941, and page 38 of our present issue) has now been fully accepted in Queensland (p. 53), in view, it would appear, of war conditions. The value of the rule thus laid down as a way out of an all but insoluble problem of fact has, however, been unfortunately undermined by the decision of the Court of Appeal in *Peacey* v. *Grosvenor*. Finally, we may note that New Brunswick is to be added to the numerous territories which have adopted provisions as to tortfeasors from the British Law Reform Act of 1935. Victoria has followed closely the provisions of the Law Reform Act as to survival of actions, with modifications derived from New Zealand (p. 69), and this change appears to be a consequence of the Road Deaths caused by the motor car. New Zealand now permits women between the ages of 25 and 60 to act as jurors if they have signified their willingness in writing (p. 73).

"*Moribus apud nos receptum est ne inter virum et uxorem donationes valerent.*"

(Ulpian in Dig. XXIV–1–1.) However, notwithstanding the Civil Law Rule, Quebec, amending the Husbands' and Parents' Life Insurance Act gives to the insured, including the wife of the insured, power to obtain advances, loans or cash surrender value from the insurer (p. 36).

Finally it is my pleasant duty on behalf of the Council to tender our grateful thanks to our correspondents who in the present difficult circumstances have so splendidly contributed to make this Review possible. Our apologies are also due to our subscribers for the delay in publication. The Editor and Secretaries are not responsible for this, but much regret any inconvenience which may have resulted.

BRITISH EMPIRE

1. BRITISH ISLES

1. UNITED KINGDOM

[*Contributed by* Sir Cecil T. Carr, LL.D.]

The 39 public general statutes enacted in the year 1942[1] constitute in respect of bulk the smallest annual volume for twenty years, though some allowance should perhaps be made for the smaller print employed. This direct law-making, as in the three previous years, is supplemented by Defence Regulations and orders made thereunder; the Defence Regulations in their turn need occasionally to be replaced by statute in order that the law may be made permanent or retrospective. There is no consolidating Act in 1942.[2]

Constitutional.—Elected in 1935, the United Kingdom Parliament should have expired at latest in 1940. In 1942 its duration is prolonged for yet another year (c. 37). Thus the legislature, unfettered by any such over-riding fundamental instrument as governs the life of the Congress of the United States of America, again exhibits its sovereign authority. Simultaneously the Parliament at Westminster lengthens (from five years to six) the duration of the House of Commons of Northern Ireland, subject to that House passing a resolution in favour of prolongation.

A historic statute of Anne disqualified members of the House of Commons at Westminster if they held or accepted an office or place of profit under the Crown. The 18th-century precautions against the possible influence of Crown patronage are still maintained; the Act has been frequently extended or excluded when statutes have created new public appointments. Its application to war-time employment led in 1941 to a general enquiry by a Select Committee presided over by Sir Dennis Herbert, now Lord Hemingford. The Committee's admirable report surveyed the history of the Act and its extensions, and recommended a simplifying Bill which would repeal and re-state the "archaic, confused and unsatisfactory law." This overdue improvement of the statute book finds itself postponed till the end of the war; meanwhile in 1942 improvised arrangements continue.

The Ministers of the Crown (Emergency Appointments) Act, 1939, passed when hostilities began, could be applied by Order in Council to any Minister created to exercise functions connected with the prosecution of a war. While making the usual arrangements for such Ministers to take oaths, employ and pay staff, authenticate their documents and take over from other Government Departments any functions or property, the Act expressly exempted the Ministers (and one Parliamentary Secretary apiece) from disqualification for membership of the House of Commons. The Herbert Committee thought this enactment, which was not limited to the present war, undesirably indefinite. In 1941 another statute enabled the Government to suspend disqualification in favour of any M.P. whose appointment to an "office or place of profit under the Crown" was "required in the public interest for purposes connected with the prosecution of any war." To this relaxation there were two important conditions. First, the Act was limited to a year's duration, so that its annual continuance has given an opportunity for review and discussion; secondly, the M.P.'s appointment had to be certified by the Prime Minister (as First Lord of the Treasury) as "required in the public interest" for the purposes already mentioned. The Herbert Committee here, too, recommended a safeguard. Accordingly in 1942 the Ministers of the Crown and House of Commons Disqualification Act (c. 11) repealed the 1939 Act prospectively

[1] 5 & 6 Geo. VI, cc. 5-40 and 6 & 7 Geo. VI, cc. 1-3. The chapter references in parentheses in the text above are to the session 5 & 6 Geo. VI, unless otherwise stated.

[2] In the field of Private Bill legislation the undertaking given in 1928 by the promoters of the Regent's Canal and Dock Co. Bill, to consolidate the special Acts of the Grand Union Canal Co., was allowed another year's indulgence in 1942: see *Hansard*, Commons, March 4, 1942, cols. 619-20.

(as from the end of the emergency period) and, in prolonging the 1941 Act, limited to twenty-five the number of certificates outstanding at a time. This maximum can be raised by Order in Council if the House of Commons so resolves.

While His Majesty does not need the authority of Parliament to create a new Ministry or an additional Secretaryship of State, a statute is helpful for settling the capacity of the holder of the new office to sit in the House of Commons, for requiring him to take the oaths, for applying the Documentary Evidence Acts to his instruments, and for transferring to him any statutory functions of other departments. The draftsman can choose between the permissive formula (" His Majesty may appoint a Minister of —— "),[3] risking the constitutional implication that Parliament, in using this language, is diminishing the Royal prerogative, and the more respectful formula " if His Majesty is pleased to appoint any person to be a Minister of the Crown by the name of Minister of ——."[4] The latter alternative is used in the Minister of Works and Planning Act of 1942 (c. 23), under which there will be transferred to the new Minister (by the usual system of Orders in Council) all the statutory functions and all the property, rights and liabilities of the existing Commissioners of Works and the Commissioners of Public Works in Ireland as well as the town and country planning functions of the Minister of Health. When the transfers are so far completed that the continued existence of the two sets of Commissioners is no longer found necessary, Orders in Council may provide for their dissolution.

" The Commissioners of Works," it may be recalled, is the usual style (abbreviated by the Interpretation Act) of " His Majesty's Commissioners of Works and Public Buildings," so named in full in an Act of 1851. When the war-time Ministry of Works and Buildings was created in 1940 by an Order in Council under the Ministers of the Crown (Emergency Appointments) Act, it was arranged that the new Minister should be identical with the First Commissioner of Works and Buildings who holds that pre-war office by Royal Warrant under the Sign Manual. Now in 1942 the First Commissioner's office is to cease to exist as soon as an Order in Council dissolves the Commissioners of Works; but this cannot happen until their functions and property, etc., are transferred (as already mentioned); the transfer will take time because the properties are many and scattered, some (*e.g.*, Embassy buildings and consulates) being situated overseas. The Minister of Works and Planning is destined to become the Minister of Works *tout court* in 1943, when the separate Minister of Town and Country Planning is created (*see* 6 & 7 Geo. VI, c. 5, s. 7, sch. 2). As for the Commissioners of Public Works in Ireland, they date from an Act of 1831 which was adapted in 1922 *quoad* transferred services in Northern Ireland. Half forgotten, they had retained their all-Ireland composition until now, though their responsibility was limited to Imperial buildings in Northern Ireland required for reserved services, *e.g.*, the Belfast Custom House.

India and Burma.—The Indian (Federal Court Judges) Act c.7 makes its modest contribution to maintain the principle that justice should not only be done but should also be seen to be done. An appeal was pending in the Federal Court. The latest appointed of the three judges of that Court was a party not to this appeal, but to a similar case pending in the Revenue Court of the Punjab touching the same point. The Government of India Act requires that three judges shall sit in the Federal Court ; as amended in 1940, it allows the appointment of a temporary supernumerary judge, but only if " by reason of absence or for any other reason " a member of the court is " unable to perform the duties of his office ". These words, being interpreted to refer to general and not particular inability, were deemed not to cover a case where,

[3] See, for instance, the New Ministries and Secretaries Act, 1916 (6 & 7 Geo. V, c. 68: " it shall be lawful for His Majesty to appoint a Minister "), the Ministry of Health Act, 1919, and Ministry of Transport Act, 1919 (9 & 10 Geo. V, cc. 21 and 50), and the Ministry of Supply Act, 1939 (2 & 3 Geo. VI, c. 38).

[4] See the Secretaries of State Act, 1926 (16 & 17 Geo. V, c. 18, s. 1 (1)).

owing to direct or indirect interest or to identification with some previous opinion as judge, counsel or otherwise, it might be undesirable for a judge to sit. The new Act authorizes the Governor-General to appoint a judge to act temporarily in such circumstances.

The India and Burma (Miscellaneous Provisions) Act (c. 39) begins by extending the existing statutory limit on the period during which temporary arrangements may be made to meet a failure of the normal constitutional machinery in the Indian provinces. Where the Congress Ministries had resigned and no alternative Ministry could be found, Governors had been obliged to issue proclamations taking over control of the administration. The proclamations were dependent on periodical Parliamentary approval for their continuance. Now the 1935 Act is amended so as to keep them in force, subject to Parliamentary review, until the expiration of a year after the end of the war. S. 2 of the Act restricts Indian appeals to the Privy Council from emergency courts. S. 3 enables the Central Legislature in Delhi to declare that an office in the service of the Crown in India need not disqualify the holder from being a member of either chamber of the Indian legislature ; this provision is retrospective. S. 4 strengthens the statutory protection for the possession of agricultural land in India by the traditional rural owners. S. 5 is needed because the Government of Burma is temporarily operating on Indian soil, because the Burma army is being reorganized there, and because the jurisdiction of the pre-war Courts of Burma has to be continued to determine cases pending before them.

International.—Whether or no the process of statutory confirmation is constitutionally indispensable, the Anglo-Venezuelan Treaty (Island of Patos) Act gives Parliamentary approval before the ratification of an agreement which cedes to Britain a small island in Venezuelan territorial waters lying in the northern entrance to the Gulf of Paria (c. 17).

The Fighting Forces.—Other international arrangements result in further steps to mobilize all resources against the common enemy. In 1940 there was the Allied Forces Act and in 1941 the Allied Powers (Maritime Courts) Act. In 1942 we have the Allied Powers (War Service) Act, the United States of America (Visiting Forces) Act and the National Service (Foreign Countries) Act. The Allied Powers (War Service) Act makes it possible to extend, by means of an Order in Council issued with the consent of the Allied Power concerned, the liability for war service to the nationals of that power who are in Great Britain when the Order in Council comes into force or who enter Great Britain subsequently. There is machinery for granting certificates of exemption (c. 29). The U.S.A. (Visiting Forces) Act takes away from the courts of the United Kingdom the jurisdiction over members of the military and naval forces of the United States in criminal proceedings (c. 31). A Secretary of State may, on representations from the U.S. Government, make an exception in a particular case. The powers of arrest, search, entry or custody exercisable under British Law, where offences are believed to have been committed against that law, are saved, but American soldiers and sailors in British custody will be delivered into United States custody under general or special directions which give effect to arrangements between the two countries. The Act may be applied by Order in Council to colonies, British protectorates or mandated territories with any necessary modifications. Letters exchanged between Mr. Eden and Mr. Winant, setting out the agreement on which the Act is based, are appended in a schedule. Mr. Eden's letter expresses the British hope of reciprocal assistance over British personnel in the United States.

The National Service (Foreign Countries) Act (c. 30) enables British subjects in countries like Egypt to be called up as if they were in Britain. Once again Orders in Council furnish flexible means of applying the Act to any class or description of Britons in any country and of arranging for such matters as registration, medical examination, disposal of objections and enlistment or enrol-

ment in British units for the time being in that country. No Order in Council is to apply to a national or citizen of a Dominion, or of India, Burma, Newfoundland or Southern Rhodesia.

Late in 1942 another National Service Act (6 & 7 Geo. VI, c. 3) authorizes preparatory steps for calling up youths of such age as might be notified, not being less than 17 years and 8 months. Thus they can be registered and medically examined before they actually enter the forces. Proclamations rendering persons of any specified age (not being less than 18) liable to be called up may direct that anyone who reaches that age on a later date shall on that later date become liable. Section 4, cryptic but now not uncommon in form, means that the new Act, like its predecessors, may be amended by Defence Regulations.

The Royal Naval Reserve Act, 1859, allows the mobilization of the reserve by proclamation for three years ; a subsequent proclamation can extend the period for another two. But the Naval Forces Act, 1903, which governs the Royal Naval Volunteer Reserve, gives no power to extend the period of active service beyond three years. Even if the R.N.V.R. men desired release when the three-year period was up, the war-time conscription laws would catch them. In 1942, as in 1917, a Royal Naval Volunteer Reserve Act (c. 18) extends their service during the emergency.

The discipline and regulation of the army and the air force are provided for by the usual annual Act (c. 15) which still recites the ancient watchword that " the raising or keeping of a standing army within the United Kingdom in time of peace, unless it be with the consent of Parliament, is against law." Various amendments are made in the Army Act and Air Force Act. Previously all charges against officers above the rank of captain had to be tried by court martial ; now the less serious charges against majors can be disposed of otherwise. Where a court martial has made a finding of " guilty " which is invalid or cannot be supported by the evidence, there is a fresh remedy. Higher authority may substitute a new finding if it be one which the court martial could validly have made on the charge and if it appears that the court martial must have been satisfied of the facts justifying it. The new sentence must not be more severe than that previously imposed. Finally, the statutory sanction for reprinting the text of the revised and consolidated Army Act and Air Force Act is suspended so as to save paper and labour.

Pensions.—The Admiralty, under an Act of 1865, can grant pensions to persons employed for the purposes of Greenwich Hospital. A new Greenwich Hospital Act (c. 35) brings their pension rights into line with those now generally enjoyed by civil servants.

Under the War Orphans Act (c. 8) the Minister of Pensions has the duty to care for any child suffering from neglect or want of proper care for whom the Ministry provides a pension on account of the death of a parent in the present war, whether the parent was a member of the naval, military or air forces, the nursing or other auxiliary services of those forces, the mercantile marine, civil defence service or the civilian population. A like duty was imposed upon the Minister by Parliament in 1918, but it was limited to the orphans of the last war whose parents were men in the armed forces of the Crown. A Pensions (Navy, Army, Air Force and Mercantile Marine) Act, passed in September, 1939, repeated this provision for the present war, but it was not found wide enough. The 1939 statute is also extended by the Pensions (Mercantile Marine) Act (c. 26) so that mariners and other seafaring persons may receive awards for other than war injuries. The injuries now included are " physical injuries " sustained at sea or in any other tidal waters or in the waters of a harbour if attributable to measures for preventing enemy action against ships or for rescue or salvage work following such action, to the absence of peace-time navigational warnings, to dangers of war-time carriage of cargo or to other abnormal conditions. During

the Second Reading debate in the House of Lords there was a question whether physical injury included tuberculosis. The Lord Chancellor gave an assurance that the Ministry of Pensions would answer "yes." Scrutinizing legislative language with his usual vigilance, Lord Maugham observed that judges, when construing statutes, cannot listen to what has been said in Parliament. Why not put tuberculosis expressly in the Act? Because, it was answered, the specific inclusion might inferentially exclude other disabilities. After an instructive discussion the draftsman produced a declaratory clause "for the removal of doubt"[5] physical injury in this context "includes tuberculosis and any other organic disease and the aggravation thereof."

Labour.—The Restoration of Pre-War Trade Practices Act, modelled on the precedent of 1919, may be persuasive rather than penal in effect. There is no attempt to enact a statutory code of peace-time conditions. Employers must restore the pre-war practice and maintain it for eighteen months, but this obligation may be modified or waived under agreements with trade unions. The unions, however, must be those whose pre-war custom it was to maintain the particular practice (c. 9).

Education.—The Education (Scotland) Act (c.5) is concerned with the nutrition and clothing of children. The existing law of 1908 did not allow food to be supplied to a necessitous child except on proof that, for want of it, the child could not take full advantage of its schooling. Even if this awkward test were passed, there were often further administrative difficulties. In future an education authority may buy and provide food for school children's meals "both on days when the school meets and on other days." If it be brought to the authority's notice that a schoolchild cannot, by reason of lack of food or of clothing, take advantage of the education provided, the authority must make the necessary provision. By an enactment enabling in form, but presumably mandatory in fact, the expense can be recovered from a parent able to afford to pay. The new provisions cover children over five years old and not yet at school and children for whom special provision has to be made—*e.g.*, those educated in special schools because of blindness, deafness or physical or mental disability.

Housing.—A Housing (Rural Workers) Act (c.32) prolongs for another three years the period during which applications may be made to local authorities for assistance under the Act of 1926.

Marriage Law.—Concerned with weddings after application to a registrar, not with those following proclamations of banns, the Marriage (Scotland) Act (c. 20) is a war-time measure. Under an Act of 1878 the man and woman who want to marry must each give notice to the registrar of the district in which he or she has resided for the past 15 days; after public notification for seven days, a certificate may be issued and the marriage proceeds. The 15-day recent residence, a serious obstacle in war-time, is now excused where the parties ordinarily resided in Scotland at the outbreak of war, whether or no they have ceased to reside in Scotland. Incidentally the Secretary of State is authorized to alter by an order the forms in the Schedule to the 1878 Act. This enabled him to remove a curious discrepancy between section 7 of that Act and the form in Schedule A thereto wherein the words "my *usual* place of abode and residence" were used.[6]

Finance.—The annual Finance Act (c.21) alters, mainly by increasing them, the duties on beer, spirits, wine, tobacco and entertainments. There is some relief from liquor licensing duties where business is discontinued or trade diminished owing to war circumstances. Purchase tax is raised on certain goods, and arrears of this tax become a priority payment in bankruptcy or winding-up

[5] Compare the decision under the Police Pensions Act, 1921, in Garvin v. Police Authority for City of London (1944), 60 T.L.R. 207.

[6] For the new Schedule A see S.R. & O. 1942 (No. 1169) I, p. 537. It may be noted that in 1878 it was still deemed worth while to declare that a Schedule to an Act had the same force and effect as if enacted in the body of the Act: see 41 & 42 Vict., c. 43, s. 17.

proceedings. Income tax is ten shillings in the pound. There is a small increase in the wife's earned income allowance. Employees may deduct a sum up to £10 for additional travelling expenses if their place of work or residence has changed "through circumstances connected with the present war." The taxation of farmers is varied. The old 1918 provision permitting a discount on tax paid in advance under Schedule E is abolished, it being now possible to buy "tax reserve certificates" which are free of tax. Where there is any form of fraud or wilful default, the old time-limit of six years for assessments and proceedings is not to apply. This provision (for which section 38 (6) of the 1926 Finance Act furnished a precedent in connection with excess profits duty) had been recommended by the Royal Commission on Income Tax ; so also was another new provision whereby the Inland Revenue Commissioners can require the taxpayer to produce books and records if they are not satisfied with the information he gives. Another interesting clause is needed to neutralize the thorny decision of the Court of Criminal Appeal in *Rex* v. *Barker* (1941) 2 K.B. 381. As stated in Parliament on July 19, 1923, the Inland Revenue authorities had evolved a rule of practice for dealing with the fraudulent tax-evader. They furnished him with a statement that, where he took the initiative in voluntarily and fully disclosing past frauds and was prepared to facilitate investigation and furnish complete evidence so as to establish liability, the authorities would undertake not to prosecute, but would accept pecuniary settlement. Sometimes, having promised full disclosure, the evader deliberately withheld essential information and was then prosecuted. The conviction of Mr. Barker, an accountant, was upset on appeal on the ground that the evidence of the ledgers which he had produced was inadmissible because it was a confession induced by a promise of immunity.

The national defence contribution is continued "until such date as Parliament may hereafter determine." The assessment and collection of income tax and land tax are simplified by miscellaneous amendments which *inter alia* discontinue church-door notices. Land tax, an ancient and unequal impost which hardly justifies the cost and intricacy of its collection, is further modified. Transfer of "Government stock" by instrument in writing may be prescribed by Treasury regulations, whereupon the stock will be transferable in no other manner and the inconveniences of inscribed stock will disappear.

A fresh National Loans Act (c. 14) renews for the financial year the borrowing powers conferred on the Treasury by an Act of 1939, already thus renewed in 1941. The figure for the year's supply is 250 millions. A Post Office and Telegraph (Money) Act (c. 24), authorizing the issue from the Consolidated Fund of 35 millions more for developing postal, telegraphic and telephonic communications, is of the usual type. So are the three Appropriation Acts (cc. 27, 33 and 34), the two Consolidated Fund Acts (cc. 12 and 22), and the Isle of Man (Customs) Act (C. 25), which follows the lines of Imperial taxation.

A short and rather technical statute is required because Defence Regulations cannot have retrospective effect. Defence (Finance) Regulations restrict the war-time transfer and acquisition of securities, partly to control the movement of funds between sterling and non-sterling areas. Declarations must be made when securities are transferred. Members of the Stock Exchange attend to these forms so that the parties are seldom troubled; but in July, 1940, the control was extended to cover life insurance and endowment policies which do not change hands on the Stock Exchange. Some policies had been transferred in all good faith without the prescribed forms. The Securities (Validation) Act (c. 10) now allows the Treasury to validate the title to these policies retrospectively.

War Damage.—The original War Damage Act of 1941 gave compensation for damage suffered down to August 31st, 1941; a subsequent Act extended the cover for "the second war risk period" which would expire on August 31st,

1942. Now a new amending Act (c. 28), instead of adding a third war risk period, prolongs the arrangement indefinitely until terminated by a Treasury order approved by resolution of the House of Commons. All three Acts are destined to be replaced in the 1943 consolidation. The amending Act prescribes penalties for giving false information and postpones (if the Treasury certifies that considerations of security require it) the duty to lay before Parliament the statistics of payments and receipts. We may note the draftsman's economical device to avoid repeating references to the principal Act in the four schedules which contain amendments thereof:—

> "References in the Schedules to this Act to a section or Schedule by number without name shall be construed as references to that section of or Schedule to the principal Act."

Schedule 4, which contains merely consequential amendments, neatly indicates in the third column the passage in the amending Act on which each amendment is consequential.

Judicial.—A statute of 1536, whereby a monarch of Welsh descent purported to harmonize the Welsh with the English system of administering justice, provided that all judges and all other officers and ministers of the law in Wales should keep their courts in the English tongue; no one who used the Welsh language should hold any office in England, Wales or the King's dominions, on pain of forfeiting his office unless he used English (27 Hen. 8. c. 26. s. 17). This provision, obnoxious to good Welshmen, was sometimes ignored in petty sessional and county courts when the bench, the parties, their lawyers and their witnesses all happened to speak Welsh; at quarter sessions and assizes the English language could hardly be dispensed with because a shorthand note of the evidence and summing up was wanted for the purpose of the Criminal Appeal Act. The Welsh Courts Act, 1942 (c. 40), enacted after a Second Reading speech by the Home Secretary which expounded the whole history, repeals the Tudor provision under the guise of removing a doubt. It enacts that "the Welsh language may be used in any court in Wales by any party or witness who considers that he would otherwise be at any disadvantage by reason of his natural language of communication being Welsh." Thus Welsh, without attaining perfect equality with English, is allowed at the wish of anyone who wants to use it. The Lord Chancellor may by rules prescribe the form of the oath or affirmation when translated into Welsh, and the arrangements for interpreters who will be paid at the public expense. The records of all proceedings in Welsh courts are to continue to be kept in English; and the bench must require anything spoken or written in Welsh to be translated into English unless it thinks translation unnecessary for securing "the due and public administration of justice." The almost common-form addition that for the purposes of this Act Monmouthshire is part of Wales was criticized by those who regard the county as almost exclusively English-speaking.

In Northern Ireland the Belfast Parliament is competent to legislate about the county court, but the Supreme Court is a subject reserved for the Parliament at Westminster. While the County Court (Jurisdiction) Act was being passed at Belfast, mainly to increase the jurisdiction from £50 to £100, the Supreme Court (Northern Ireland) Act (6 & 7 Geo. 6. c. 2) is passed at Westminster to make ancillary changes. The latter Act also abolishes the extreme instance of caution in the Parliamentary control of delegated law-making. As the Committee on Ministers' Powers noted in 1932, an Act of 1877 which required the procedural rules of the Supreme Court of Ireland to be laid before Parliament, made them vulnerable to a resolution for their annulment during a period of no less than 100 days. The period is now cut down to the normal 40 days. Section 1 of the Rules Publication Act (which requires notice to be given of a proposal to make statutory rules) is no longer to apply to such rules. It had already been excluded from application to rules of the English Supreme Court in 1925.

Legal remedies have been greatly restricted by the Courts (Emergency Powers) Acts where a party's position is prejudiced by war circumstances. A fresh Act in the series (c. 36) is passed to give protection where a judicial decision had revealed a *casus omissus*. A bought a house with a mortgage from a building society and sold the house to B, subject to the mortgage. If war-time circumstances prevented B from keeping up the mortgage instalments, there was found to be no protection for him.

Compensation for Requisitioning.—The Landlord and Tenant (Requisitioned Land) Act (c. 13) follows out the recommendations made after an inquiry by Mr. John Morris, K.C. (Cd. 6313 of 1941), in the following connection. If a tenant in actual possession of residential or business premises is turned out on their being requisitioned, the law allowed him compensation on the basis of their annual value. But his lease may make him pay more in rent than he will receive from the requisitioning authorities; he has to find other premises and pay rent for them. The new Act allows him in such a case to disclaim his lease, as can already be done when premises suffer severe war damage. This concession applies only where the lease has no more than five years to run; with a long lease it seemed unfair to redistribute the burden between landlord and tenant when the lease might have a big value in the post-war years. The new Act also deals with leases whereby the tenant covenants to pay rent which not only covers the use and occupation of the premises but also covers insurance, rates and other conveniences (such as a hot-water service or a lift) provided by the landlord. Here the tenant will have to pay for these landlord's services even though dispossessed by requisitioning. The Act arranges that the tenant's rent may be adjusted by cutting out the part representing payment for the landlord's services; conversely the landlord will no longer be bound to provide them for the tenant; the requisitioning authority will pay the landlord for these services, if it wants them, at the rate paid by the tenant.

Industrial Property.—The Patents and Designs Act (c.6) begins by extending the term of patents, which is normally 16 years. The existing law allowed an extension when the patentee had suffered loss or damage by reason of a war in which Britain is engaged. The new Act allows the courts to grant further time on applications which would otherwise have been out of date; the period thus granted may, in case of war losses, be ten years. There is also fresh provision for the use of patents and designs by Government departments. The existing law permitted a department to use the rights on agreed terms but not to sell a protected article unless it was no longer of service to the State. This latter condition debarred the Minister of Food from reselling articles imported by him which are patented in this country. A Defence Regulation had given some relief, but Defence Regulations are only temporary and cannot have a retrospective effect. The Act revokes the Defence Regulations and makes permanent law with effect from the outbreak of war. Lastly there is a change in respect of inventions which, for reasons of national defence, must be kept secret.

Miscellaneous.—When food control was instituted at the outbreak of war, the Minister of Food took over the production, sale and distribution of sugar by virtue of Regulations 53 and 55 of the Defence Regulations. This had its effect on the Sugar Industry (Reorganization) Act of 1936 and the functions of the Minister of Agriculture and the Sugar Commission thereunder. The Sugar Industry Act of 1942 (c. 16) regularizes the changes and makes retrospective adjustments of the former law. For the war period sugar refiners need not be registered, the Sugar Refining Agreement is modified, the calculation of the assistance to the Sugar Corporation is simplified, and the scheme for research and education is suspended.

A short Coal (Concurrent Leases) Act (c. 19) remedies a *casus omissus* in Part I of the Coal Act, 1938, revealed in recent litigation.

As with the House of Commons so also with the local authorities in Great

Britain, elections continue to be suspended for another year by virtue of a Local Elections and Register of Electors (Temporary Provisions) Act (c. 38).

There was the usual Expiring Laws Continuance Act at the end of 1942 (6 & 7 Geo. 6 c. 1). Section 18 of the Mining Industry Act, 1926, dealing with recruitment for coal-mining, is allowed to die in view of the war-time control of man-power.

Ecclesiastical.—Two short Church Assembly Measures receive the Royal Assent under the enabling Act of 1919. The Ecclesiastical Commissioners (Powers) Measure allows grants for the cure of souls to be paid in future on a mere resolution of the Commissioners instead of by formal deed, notwithstanding the requirements of a statute of 1840. As its title suggests, the Loans (Postponement of Repayment) Measure enables Queen Anne's Bounty to postpone an incumbent's repayment of annual instalments during the emergency period.

Delegated Legislation.—The total of 2,937 Statutory Rules and Orders registered under the Rules Publication Act during 1942 is the highest recorded since the system was instituted in 1894. The previous highest was 2,475 for the year 1920.

The text of the S.R. & O. of general application made during 1942 (and still in force at the end of the year) is contained as usual in two official volumes under subject-headings grouped alphabetically. Those which flow from the Emergency Powers (Defence) Acts and are headed "Emergency Powers (Defence)" are taken out of their sequence and brought together separately for convenience in the second volume. Each volume has its own index and frequent cross-references are given because orders concerning subjects like aliens, civil defence and wireless telegraphy, being made under both pre-war and emergency powers, occur in both volumes.

Food Control orders occupy roughly a third of the second volume. It was a brilliantly simple idea to allow the housewife as much latitude in shopping as was compatible with the general restriction of her purchasing power by a system of "points rationing," but naturally the working out of details was intricate. While otherwise philosophically tolerating the system, the public objected towards Christmas to a tiresome clause in the Rationing (General Provisions) Order which made it an offence for the benevolent citizen to give away the tea, sugar or chocolate which his self-sacrifice had saved for the purpose. An amending order was signed on December 23.

The hardest worked Defence Regulation continues to be No. 55 which provides in wide terms for the general control of industry. From it flow almost all the orders controlling food, clothing and raw materials.

The general code of Defence Regulations received significant additions during the year. Samples of the contents and purposes of these will show the scope and use of the delegated power. They deal, for example, with misuse of Government petrol (1C), billeting of essential workers (22A), non-interference with water storage tanks and pipes (28B), registration of foreign pharmacists (32C), and compulsory treatment of venereal disease (33B). They punish unlawful gaming and regulate entertainments (42CA and 42CB); they take control of coal undertakings (54D), restrict appeals for charity and the registration of new clubs (79D and 55C), and they facilitate invasion exercises involving closing of shops, prohibiting assemblies and entertainments and cutting down the sale of alcoholic liquor (84AB). Regulation 59A allows the wages of roadmen to be paid by cheque notwithstanding the Truck Acts.

Any of these regulations or of the orders descended from them, could have been held invalid by the courts if shown to be outside the powers of the parent Act. They suffered no such judicial check in 1942. One of the special codes of Defence Regulations, which empowered the amalgamation of separate local police forces, was challenged by the alternative method—a prayer in the House of Commons for its annulment. Although the motion was withdrawn after

discussion,[7] the incident shows the potential Parliamentary check, attempted more frequently in 1943. Within 28 days of the laying of an Order in Council containing particular Defence Regulations either House can resolve that it be annulled. Apart from this, of course, Parliament has the general power to repeal, or refuse to continue, the parent Act.

2. NORTHERN IRELAND

[*Contributed by* SIR ARTHUR S. QUEKETT, K.C., LL.D.]

IN the year 1942 twenty-four public general Acts were passed, and all belong to the session 6 & 7 George VI. There were no local or private Acts or Acts confirming Provisional Orders.

Local Government of Belfast.—An important change in the municipal system was made by the Belfast County Borough Administration Act (c. 11). Before this Act came into force the council, which is the local government authority for the County Borough of Belfast, exercised all the executive powers of that authority. The committees and officers of the council could not, generally speaking, take executive action without a covering decision from the council sitting as a body. The Act substitutes a system according to which the Minister of Home Affairs is responsible for appointing City Administrators to carry out the decisions of the council, so far as they may involve executive action in the matters specified in the Act (*e.g.*, employment and superannuation of officers, purchase of goods and land, making of contracts, striking a rate, raising of loans). The Minister may also, from time to time, confer other functions of the council upon the Administrators by means of orders, which must be laid before Parliament and will be subject to annulment by either House during the usual statutory period. By virtue of the Act the council is in financial matters subject to the general control of the Administrators. It enables a conflict of opinion between the council and the Administrators to be dealt with by the Ministry of Home Affairs, whose directions in the matter are to be carried out by the Administrators. The Ministry receives an extended power of control over the appointment, removal and salaries of officers and servants in the service of the council, and those officers and servants are to act under directions given by the Administrators in matters within their powers. The measure is experimental; it is to continue in operation until March 31, 1946, subject to further continuance by Parliament after that date.

Electricity.—Legislative authority was given by the Electricity (Emergency Supplies) Act (c. 10) for works which were undertaken by the Government for ensuring the maintenance of electricity supplies by means of "stand-by" generating stations and main transmission lines. The most extensive production of electrical energy in Northern Ireland had been carried on at a single station, and, owing to difficulties which took place in the provision of auxiliary plant, the Ministry of Commerce took action.

The statute supplies the Ministry of Commerce with authority to construct the necessary plant. It also empowers that Ministry to acquire plant from authorized undertakers, and to acquire an electricity undertaking as a going concern and in that case to become the "authorized undertakers." Acquisition may be compulsory, except where the undertakers are a county borough council; the powers of acquisition are limited to the "emergency period." The Ministry is empowered to control the operation of generating stations belonging to authorized undertakers. The price for electricity supplied in bulk by the Ministry must be fixed by a tariff order, which is not to come into force until each House of Parliament has had an opportunity to annul it. An exemption from local rates is given to generating stations constructed by the Ministry.

The Act makes provision for the costs incurred by the Ministry of Commerce

[7] See *Hansard*, Commons, Oct. 14, 1942, col. 1691.

in relation to generating stations and main transmission lines which it may have acquired or constructed. Having regard to the fact that the work was due to the emergency, the Imperial Government sanctioned a grant of one-half of the initial capital expenditure on the " stand-by " plant. The loan charges in respect of the balance of this expenditure, together with the operating and maintenance costs of the Ministry, are required by the Act to be set against the receipts derived from operating the stations and lines ; and any amount by which the loan charges and costs exceed the receipts is to be spread over the existing electricity undertakings affected.

The statute would have been incomplete without some provision for modifying the extensive code of general Electricity Acts—which was designed to apply to companies and local authorities—so as to make it appropriate to a Government department when acting in the capacity of " authorised undertakers." Power was therefore given to the Governor to make, by Order in Council, such modifications of the Electricity (Supply) Acts and the Schedule to the Electric Lighting (Clauses) Act, 1899, as might be required in those statutes in their application to the Ministry of Commerce. The Order in Council made under this power contains detailed modifications of enactments, and also some general provisions which are to the following effect:—

(*a*) Where the Ministry of Commerce is acting as authorized undertakers, any provisions of the Electricity Acts, whereby the doing of anything by the undertakers is subject to the consent, approval or authority of that Ministry, shall not have effect—but the Ministry, before doing that thing, must afford to any person or body the like opportunity of being heard or objecting as such person or body would have if the consent, approval or authority of the Ministry were required.

(*b*) The Ministry may obtain, with respect to its undertakings under the Act, a special order for any purpose for which such an order can be obtained by other authorized undertakers under the Electricity Acts ;

(*c*) Where any matter is, by virtue of the Electricity Acts, directed to be determined by arbitration or by the Ministry, and the Ministry, acting as authorized undertakers, is one of the parties concerned, in that case the matter in question is to be determined by the arbitration of such engineer or other fit person as may be agreed upon between the Ministry and the other party concerned or, in default of agreement, appointed by the Lord Chief Justice of Northern Ireland.

Arterial Drainage.—The main object of the Drainage Act (c. 7) is to give effect to recommendations contained in the interim reports of a Drainage Commission appointed by the Prime Minister to consider the order of priority in which arterial drainage schemes should be executed, and whether any of them would contribute to the acreage of land under cultivation during the war. The Commission recommended that schemes initiated for that purpose should attract a Government grant not exceeding 75 per cent. of the cost, and that the remainder of the cost, after the deduction of a pre-determined Government grant, should be apportioned as between a charge on the occupiers of the lands to be drained or improved by drainage and a charge on the county rates, as the county council should determine.

A provision in the Act extends the general powers of a county council in relation to all drainage schemes (not only emergency schemes) by empowering them to carry out, as maintenance work, the cutting or removal of trees and the removal and disposal of silt or other obstructions, where such work is required so as to secure the efficient operation of the scheme. There is also a provision that drainage works for the improvement of some of the smaller rivers, under schemes eligible for a grant from the Ministry of Agriculture, can be carried out by the county council on behalf of the occupiers of the lands, who are to pay so much of the expenses as will not be defrayed by the grant.

The powers of the Ministry of Finance in relation to the Bann Drainage Scheme are extended to the carrying out of remedial works not involving channel improvement.

Flax Industry.—The Agricultural Wages (Flax Workers) Act (c. 8) enables the Agricultural Wages Board to fix standard rates of wages for workers engaged for piece work in the pulling and scutching of flax. In fixing a standard rate the Board must have regard to—(*a*) the highest minimum rate of wages for workers employed in agriculture; (*b*) the casual nature of the work; (*c*) the rates of wages for casual work in employment other than employment in agriculture, and (*d*) the customary relationship between the rates of wages paid to flax workers and other agricultural wages.

It is made an offence for any person who employs a flax worker to pay that worker wages above the standard rate. The object of the Act (which is temporary in duration) is to prevent the supply of agricultural labour from being disorganized by the payment of competitive wages during the flax-pulling season.

The risks of fire in the flax industry made it necessary to frame a special scheme of insurance against fire damage to scutch mills and to farmers' flax at the mills and at flax factories. Provision is made by c. 23 for the setting-up of two funds—the Scutch Mills (Fire Insurance) Fund and the Flax (Fire Insurance) Fund—both of which are administered and controlled by the Ministry of Agriculture. Contributions, fixed by reference to the output of farmers' flax scutched on commission, are payable to the Scutch Mills Fund by every person operating a scutch mill, unless he satisfies the Ministry that the mill is already fully insured against fire. Out of this Fund compensation in respect of damage by fire will be payable to the owner of a scutch mill, in respect of which contributions are payable under the Act, up to an amount not exceeding in any case 50 per cent. of the cost of re-instatement, but not more than 25 per cent. of that cost unless the Ministry of Agriculture is satisfied that the re-instatement will be carried out within a reasonable time. In the case of the Flax Fund, contributions are payable by every person on whose behalf flax straw is scutched on commission at a scutch mill or flax factory, the contribution being calculated by reference to the amount of flax fibre produced. Compensation, calculated by reference to the acreage from which the flax was produced, will be payable out of the Flax Fund to the owner of farmers' flax destroyed at a scutch mill or flax factory. The Act empowers the Ministry of Agriculture to make regulations for the proper storage of flax, and the taking of precautions against fire, at scutch mills and flax factories.

Destruction of Foxes.—Provision is made by c. 24 for financing schemes for the destruction of vermin to be administered by the County Committees of Agriculture in the several counties. The schemes are to apply, in the first instant, to foxes in view of the widespread damage to poultry and lands caused by their depredations which have increased in recent years. The Ministry of Agriculture is empowered to bring within a county scheme any other species of animal (whether quadruped or bird) if satisfied that such a course is desirable for preventing damage to livestock, crops or agricultural land. The financial provisions of the Act empower each county council to levy annually a rate, up to a maximum of a halfpenny in the £, upon rateable property in the rural districts of their county for defraying one-half of the expenses of the county scheme. The other half of the expenses is to be met out of moneys voted by Parliament.

Fishery Licence Duties.—The Fisheries Act (c. 22) empowers boards of conservators to raise additional revenue in order to meet the increased cost of providing adequate protection for the salmon, trout and eel fisheries in their respective districts. Under the Act the duty payable in respect of " any engine, net, instrument, weir or device for taking fish (other than a salmon rod) " may be increased by an amount not exceeding one-half of the duty fixed by

the previous statutes. Boards are also empowered to increase the annual rate leviable (in addition to the licence duty) in respect of productive commercial salmon, trout or eel fisheries ; this rate must not exceed the difference between the licence duty on the fishing instruments and a sum representing 15 per cent. on the rateable valuation of the fishery.

New Industries.—Legislation was passed in 1937 to promote the establishment of new, and the development of existing, industrial undertakings, and a time limit of five years was then fixed for the receipt of applications for State assistance by way of grant or loan. By the New Industries (Development) Act (c. 12) it was made possible for the Ministry of Commerce to entertain applications for assistance up to December 31, 1944.

Sale of Ice Cream.—By an Act passed in the year 1937 the penalties of the Sale of Food and Drugs Acts were made applicable to any person who sold " ice-cream," if it did not contain a prescribed percentage of milk fat, or if it contained any fat other than milk fat. " Ice-cream " itself was not described in the Act, but the word was, by a definition, made to include " any frozen commodity in the nature of ice-cream." In the years 1940 and 1941 the Minister of Food, acting under the Defence (General) Regulations, made orders applicable in Northern Ireland as in Great Britain, prohibiting—(*a*) the manufacture, sale or purchase of any cream, " or, if it contains cream . . . any ice-cream "; and (*b*) the use by way of trade or business, of milk, milk powder or condensed milk in the manufacture of ice-cream. Thus in Northern Ireland there arose a conflict of laws. The Minister of Food had made it illegal to sell ice-cream unless it were both creamless and milkless ; while the seller of ice-cream which did not contravene the Minister's orders was exposed to penalties under the Northern Ireland statute by reason of the absence of milk fats from the commodity and the necessary presence therein of some other kind of fat. The difficulty was found not to be suitable for adjustment by a Defence Regulation. It was removed for the time being by the Sale of Ice-cream (Temporary Provisions) Act (c. 9), passed by the Northern Ireland Parliament for suspending the enactments of 1937 which required that milk fat, and no other fat, should be a constituent of ice-cream sold by any person. Subsequently, even the sale of creamless and milkless ice-cream was prohibited by the Minister.

National Fire Service.—The Fire Services (Emergency Provisions) Act (c. 5) empowered the Ministry of Public Security, by regulations, to provide for the co-ordination, for the period of the war emergency, of all or any of the fire services of local authorities or for the unification, under the control of the Ministry, of all or any of those services for that period. Under the regulations the Ministry acquired all local authority fire services operated in Northern Ireland, and the National Fire Service (Northern Ireland) was established. The cost of running the new service is defrayed out of voted moneys, but an obligation is imposed on local authorities to make annual contributions towards this cost.

Building Byelaws.—The Housing (Temporary Accommodation) Act (c. 4) enables the councils of boroughs and urban or rural districts to consent to the erection and use, for human habitation, of buildings which do not comply with their building byelaws. A council may attach to their consent any conditions which they may deem proper with regard to the situation, sanitary arrangements and protection against fire of any building, and may fix the period during which the building may be allowed to stand. The Act is limited to expire, unless continued, on December 31, 1943. Its provisions are similar to those of a former temporary enactment, s. 21 of the Housing (Ireland) Act, 1919, but they go beyond that enactment in two respects. A council may not " relax " byelaws within a prescribed distance from the area of a neighbouring council except by agreement with the latter and with the consent of the Ministry of Home Affairs. Moreover, the council have an express power to demolish or remove a building

if the conditions of their consent are broken, or if the building is not removed within the time allowed for it to stand.

Air Raid Protection.—The Education (Emergency Provisions) Act (c. 3) enables local education authorities and managers of recognized schools and training colleges to receive grants equal to the full amount of the approved expenditure which they may incur in the provision of approved air-raid protection. Grants are only given in the case of schools or training colleges situate in areas in which the Ministry of Public Security considers air-raid protection to be absolutely necessary ; and an essential condition of the payment of any such grant is that the air-raid protection must be available for use as a public air-raid shelter when not required by the school or college.

County Court Jurisdiction.—The enactments relating to this subject are spread over the statute books of the United Kingdom Parliament and the Parliament of Northern Ireland under dates from 1851 to 1937. Their overhaul—leading up, no doubt, to consolidation—is due, and is envisaged by the Government, according to an announcement made by their spokesman in a debate in the House of Commons on the Bill for the County Court Jurisdiction Act (c. 15). He said it was their intention to set up a representative committee to examine the code in detail with regard to the law, procedure, and staffing. In the meantime the Act of 1942 forms a response to a demand made for the extension of the jurisdiction so far as it had been limited, by the provisions of statutes long since passed, in terms of the money value of its subject matter.

The county courts have, in general, a jurisdiction to hear and determine personal actions where the amount claimed or in dispute does not exceed £50—this jurisdiction having been conferred by s. 35 of the Civil Bill Courts (Ireland) Act, 1851, as amended by s. 50 of the County Officers and Courts (Ireland) Act, 1877 ; the new Act increases this limit from £50 to £100. S. 50 of the 1877 Act gives jurisdiction in actions where the claim consists of a balance not exceeding £50 after an admitted set-off ; the Act substitutes £100 for the limit of £50. In equity matters the county courts have jurisdiction in cases where the estate, trust fund or property which is the subject matter of the proceeding does not exceed £500, or, in so far as it consists of personalty, does not exceed £500 and, in so far as it consists of land, does not exceed the annual value of £30 ; the Act increases the limits of £500 and £30 to £1,000 and £50, respectively. A similar increase is made in the jurisdiction in respect of contentious matters arising in connection with the grant of probate or letters of administration, and also in certain cases where a county court has power to grant limited administration. The Act also extends the county court jurisdiction, in cases involving questions of title to corporeal or incorporeal hereditaments, to cases where the annual value of the land in dispute, or over which an easement or licence is claimed, does not exceed £50 ; the former limit of annual value was £30.

In order to make the Act fully effective, it was necessary that amendments should be made in some enactments which provide for the removal from the High Court to the county court of actions within the county court jurisdiction, and for the removal from the county court to the High Court of certain actions commenced in the latter court. Such amendments, as affecting the Supreme Court of Northern Ireland, would have been outside the powers of the Northern Ireland Parliament by reason of s. 47 of the Government of Ireland Act, 1920, which makes the Supreme Court a reserved matter. Accordingly, the Imperial Government agreed to introduce legislation at Westminster for making the necessary consequential amendments, and these were accomplished by s. 1 of the Supreme Court (Northern Ireland) Act, 1942.

Juvenile Courts.—A Committee appointed by the Minister of Home Affairs to report on " The Protection and Welfare of the Young and the Treatment of Young Offenders " recommended, among other things, the appointment of persons qualified to deal with juvenile cases to be known as " children's

guardians," who should sit with courts of summary jurisdiction on the hearing of charges against children or young persons. The Children (Juvenile Courts) Act (c. 16) gives effect to that recommendation. It provides for the appointment by the Governor of Northern Ireland of children's guardians for each petty sessions district. Children's guardians, when sitting with a summary court, may interrogate any person who is giving evidence on the hearing of the charge or application before the court, but may not otherwise exercise any judicial functions.

Taxation and Finance.—The Finance Act (c. 14) increases the rates of entertainments duty. The lowest rate is ½d., which is chargeable on payments for admission between 3d. and 5d. ; when the payment for admission is over 3s. 5d., the rate of duty is 2s. 6d., and if the payment for admission rises above 3s. 11d. a further 4d. of duty is payable for every additional 6d. (or part of 6d.) of the payment. The Act includes provisions applying certain existing enactments to cases where a business, licensed for the sale of liquor, is certified to have been temporarily discontinued by reason of " war circumstances." The applied enactments are those which allow of the surrender of the licence and the repayment or remission of excise duty thereon, and confer on the licence holder a right to obtain a new licence when the business temporarily discontinued is resumed. The Act puts the relevant certificate of the licensing court (which corresponds to the English justices' licence) into suspense during the time of the discontinuance of the business, and it provides for the restoration of the certificate to full force, or for its extinguishment, in the cases respectively mentioned in the Act. Provision is also made for obtaining a certificate for transfer or removal of a licence during the period when the certificate of the licensing court is in suspense. There are also provisions enabling various reductions from excise duty on liquor licences to be made, with the object of relieving licence holders who may be affected by adverse trade conditions due to " war circumstances." The Act includes the express repeal of an obsolete and obscure enactment of the year 1825, which provided that no excise on-licences for the sale of spirits or sweets should be granted, except to holders of excise on-licences for the sale of beer ; this enactment—supposing it to be in force—would apply in Northern Ireland as existing law relating to transferred taxation.

The Finance (No. 2) Act (c. 20) is concerned only with the amendment of law and does not impose or increase taxation. It deals with the position which arose out of the decision of the Court of Appeal in England in *In Re Robb's Contract* [1941] 1. Ch. 463. That case had dealt a blow to conveyancers by upsetting the assumption that certain documents exempt from liability to stamp duty under s. 74 of the Finance (1909-10) Act, 1910, were outside the requirements as to adjudication imposed by that section. The Act is also concerned with the statutory obligations to secrecy, which bind officials of the Ministry of Finance engaged in the levying and collection of transferred taxes ; it relaxes obligations of that kind to the extent of permitting disclosures to be made to officers of the United Kingdom authorities similarly engaged in connection with reserved taxation and it is thus complementary to s. 53 of the Finance Act, 1927 (U.K.).

The Exchequer and Financial Provisions Act (c. 1) enables the Ministry of Finance to transfer certain sums from the Capital Fund to the Exchequer and to apply the sums so transferred, together with certain sums repaid to the Exchequer under the Loans Guarantee Act of 1922, towards the repayment of the debit balance outstanding on the suspense account of the Unemployment Fund of Northern Ireland. This Act is of importance, because it provides the means of extinguishing, within a short space of time, the suspense debt of the Unemployment Fund which, under the arrangements previously in force, would not be completely extinguished until the year 1995.

The Exchequer and Financial Provisions (No. 2) Act (c. 18) improves the administrative machinery for the exercise of borrowing powers conferred upon the Ministry of Finance by Act of Parliament, so that, within the amount laid down as respects each particular borrowing power, the Ministry is empowered to pool the proceeds of all authorized borrowings. The Act also removes an anomaly existing as regards the compensation levy payable annually to the Claims Fund, under the Intoxicating Liquor Act of 1923, by the holder of retail liquor licences ; it provides that, in a case where a proportion of the excise licence duty is remitted or refunded because of a discontinuance of the business, a corresponding remission or refund shall be made in respect of the compensation levy.

The Government Loans Act (c. 19) contains two provisions which may here be summarized. Under the previous enactments it was necessary to seek Parliamentary authority for advances for Government loans whenever the total amount of all loan issues made since the year 1922 exceeded a particular figure. At the time of the passing of the Act the maximum limit was shown as £11,500,000, whereas, by reason of repayments of loans, the outstanding principal was less than £7,000,000. The Act introduces the system of a " revolving credit " and lays down a new limit of £10,000,000, to be calculated by reference only to the principal outstanding. Another provision of the Act amends the Act of 1939, which in regulating the finance of the Government Loans Fund, contains many references to " Ulster Loans stock " and " Ulster Loans securities." The amendment expressly provides that the Ministry of Finance shall be free to use designations other than " Ulster," when creating stock or issuing securities in order to finance Government loans under the Act of 1939.

Prolongation of Parliament.—The life of the fifth Parliament was prolonged by a resolution of the House of Commons in the following circumstances. The Government of Ireland Act, 1920, contains an enactment providing that the House of Commons of Northern Ireland shall, unless sooner dissolved by the Governor, have continuance for five years from the day on which his summons directed the House to meet and no longer. By virtue of this enactment (which the Northern Ireland Parliament cannot amend) the House of Commons in the Parliament which was in being in the year 1942 would have come to an end on March 1, 1943. It happened that Imperial legislation was at that time required to give an eighth year of life to the Parliament at Westminster, and thus it was possible to include in that legislation a temporary amendment of the Northern Ireland constitution. This was done in an enabling form, by s. 2 of the Prolongation of Parliament Act, 1942, which provides that s. 14 (4) of the Government of Ireland Act " shall, in its application to the House of Commons in the present Parliament of Northern Ireland, have effect, if the said House so resolves, as if six years were therein substituted for five years." The enactment was put into operation by a resolution passed by the House on November 25, 1942.

Delegated Legislation under Emergency Powers (Defence) Acts.—Various important orders were issued by departments of the Northern Ireland Government under powers derived from Defence Regulations made by Orders of H.M. in Council in pursuance of the Emergency Powers (Defence) Acts. For the most part the powers were delegated by the Secretary of State or some other Imperial authority ; but, in some cases, a Northern Ireland department is specified in the Defence Regulation as the authority for carrying it out in Northern Ireland. For instance, the compulsory tillage order was made by the Ministry of Agriculture under delegated powers, while an order regulating the control of employment in agriculture was made by the Ministry of Labour in exercise of powers directly conferred upon it by the appropriate Defence Regulation.

3. ISLE OF MAN

[*Contributed by His Honour* R. D. FARRANT, *First Deemster and Clerk of the Rolls.*]

THE legislation for the year 1942 was almost entirely connected with the war emergency. The War Damage Act of 1942 set up a scheme of assurance against war damage following a modified version of the Imperial Act. Buildings, chattels and businesses were included, and insurance made compulsory for buildings and businesses, and voluntary for chattels, at rates lower than those fixed in England and in not so complicated a form. Power was given in the Purchase Tax Amendment Act, 1942, to Tynwald by resolution to amend the duties under the Purchase Tax Act. Power was given in the Landlord and Tenant (Requisitioned Land) Act, 1942, to disclaim leases in certain cases of land requisitioned for war purposes with ancillary provisions as to the giving of notices; the effect of disclaimer; for land which is requisitioned in stages; where tenant is abroad; and other miscellaneous matters arising thereout.

Power was given in the Landlord and Tenant (War Damage) Act, 1942, for relief from obligation to repair in cases of war damage; to imply certain provisions in leases; mortgages to raise money to make good damage on settled land; to disclaim leases or retain on altered terms; for the determination of disputes as to unfitness of premises damaged; to the Court to modify effect of notices of disclaimer; for notices of retention; of the obligation to reinstate where payment of costs of works is made; and the modification of leases of reinstated or reconstructed premises; and ancillary powers and obligations. Power was given in the Churchyard Burial Ground and Cemetery (Railings Removal) Act, 1942, to the appropriate authority with the consent of the owners to remove railings in any cemetery or churchyard for sale for war purposes. Power was given in the Licensing Amendment Act (No. 2) Act, 1942, to reduce the permitted minimum of spirits that may be sold by retail. Under the Liabilities (War-time Adjustment) Act, 1942, provisions are made for the making of a liabilities adjustment order in cases of insolvent debtors; with provisions as to the disclaimer of leases and recission of contracts; for dealing with the rights of mortgages and securing payment of sums in respect of property or under contract; priority of debts; dealing with the estates of deceased debtors; as to partnerships and companies; and ancillary provisions, including the extension of the Courts (Emergency Powers) Acts to contracts made after the commencement of the war.

Certain amendments were made as to Agricultural Holdings Act by the Agricultural Holdings (Amendment) Act, 1942, and as to highways by the Highways (Amendment) Act, 1942, and the Highways (Duties) Act, 1942.

By the Agricultural Wages (Regulations) Act, 1942, the wages of agricultural labourers were for the first time regulated by statute in the Island and a Wages Board set up.

Provisions were made as to blind persons and those suffering from cancer by the Blind Persons Act, 1942, and the Cancer Act, 1942.

By the Rent of Furnished Premises (Restrictions) Act, 1942, power is given to the Assessment Board to review the terms of the lettings of furnished premises.

By the National Health Insurance Contributory Pensions and Workmen's Compensation Act, 1942, the rates of sickness and disablement benefit and rates of contribution and compensation were increased, and power was given to adapt the Acts to war-time conditions.

4. EIRE

[*Contributed by* A. DENIS PRINGLE, ESQ.]

THE greater part of the legislation for the year, contained in twenty-seven public

Acts, was of purely local interest, and the only Acts of general importance are the following:—

Finance.—The Finance Act (No. 14) continues income tax at 7s. 6d. in the £. Special allowances are to be made in respect of expenditure on the production of certain commodities which were not produced in the State during the year before the commencement of the war, and which would not during that year have been commercially profitable. Part III, dealing with Death Duties, contains provisions for relief in certain cases where the death is caused within the State or the territorial waters thereof by foreign armed forces. A Stamp Duty of £1 is payable on every banker's licence (s. 21), and one hundred thousand pounds is transferred from the Road Fund to the Exchequer (s. 24). Assessments to excess profits duty are terminated by s. 25.

Central Bank (No. 22) establishes on " the appointed day " (subsequently fixed as February 1st, 1943) the Central Bank of Ireland which, according to the title of the Act, is to be " the principal currency authority in the State." The Currency Commission established under the Currency Act, 1927, is dissolved and its powers and duties (with certain modifications) are transferred to the Central Bank. The main functions of the Currency Commission were the issuing of legal tender notes and the holding of the reserves of gold and foreign assets. In addition to these powers and duties, the Bank is given certain other permissive powers—for instance, it is to have the general function and duty of taking such steps as the Board may from time to time deem appropriate and advisable towards " safeguarding the integrity of the currency and ensuring that, in what pertains to the control of credit, the constant and predominant aim shall be the welfare of the people as a whole." S. 8 empowers the Bank to make provision for the collection and study of data relating to monetary and credit problems, to publish informative material in regard thereto, and to establish and maintain contact with the monetary authorities established in other countries. The Board of Directors of the Bank consists of a Governor (appointed by the President on the advice of the Government), three banking directors (selected from a panel prepared by the representatives of the Associated Banks), and up to five other directors, appointed by the Minister for Finance. The gradual extinction of the present consolidated bank notes in a period of twelve years is provided for in Part IV of the Act. All coins issued under the Coinage Act, 1926, are to be issued through the bank. S. 65 of the Act provides that it shall be lawful for the Bank to obtain from persons carrying on hire-purchase businesses all information which the Board may consider necessary or desirable in relation to their business. S. 67 removes an anomaly which existed, whereby deposit receipts only of the Bank of Ireland were available for investment by trustees, by legalizing such investment in an interest-bearing deposit account with *any* of the Associated Banks.

Referendum.—The Referendum Act (No. 8) makes comprehensive provision of the taking of a Referendum either for the amendment of the Constitution or otherwise. It provides for the presentation to the High Court of petitions in reference to matters arising on a Referendum, and for the trial of such petitions by three judges with power to state a case for the decision of the Supreme Court on a question of law.

Water Supply.—The Water Supplies Act (No. 1) provides that a sanitary authority may, subject to the making by the Minister for Local Government and Public Health of a Provisional Order, acquire compulsorily a water supply for the purpose of increasing, extending or providing a supply of water under the Public Health Acts.

II. NORTH AMERICA

1. DOMINION OF CANADA

[*Contributed by* JAMES FRANCIS, ESQ., *Solicitor, Department of the Secretary of State.*]

THE Third Session of the Nineteenth Parliament began on January 22, 1942, and closed by prorogation on January 27, 1943. Of the 112 Acts passed and comprised in the Statutes of 1942-43, 73 dealt with divorces, 36 were Public, and 3 were Private.

Agriculture.—The Canadian Wheat Board Act, 1935, is amended in two respects by c. 4. Paragraph (*e*) of s. 7 of the Act is amended by increasing from 70 to 90 cents the sum that may be paid per bushel to producers of Grade No. 1 Manitoba Northern wheat. On other grades the amount payable shall be that which in the opinion of the Board brings such grades into proper price relationship with No. 1 Manitoba Northern. Paragraph (i) of s. 7 is amended by adding mills to the several places, such as elevators and loading platforms, to which deliveries are regulated by the Board. This Act was assented to on March 27, 1942. By s. 2 thereof it was declared to come into force on August 1, 1942.

C. 5 amends the Prairie Farm Assistance Act, 1939, by providing that the Governor-in-Council may, for the purpose of the Act, declare any crop year to be an emergency year. The former provision (s.s. (1) of s. 3), now repealed, enabled the Governor-in-Council to declare any crop year in which the average price was less than 80 cents a bushel as an emergency year, "average price" being defined as the average of the daily closing prices of No. 1 Manitoba Northern wheat in store at Fort William, between July 31 and November 1 in any year.

The Wheat Acreage Reduction Act, 1942 (c. 10), contemplates a reduced wheat acreage in 1942 by the farmers of Manitoba, Saskatchewan, Alberta, and the principal producing districts of British Columbia. It authorizes the payment to the wheat farmers of $2 for each acre in summerfallow in 1942 or for each acre sown to coarse grains, rye or grass in excess of the basic acreages. An additional sum of $2 is payable for each acre sown to grass or rye in 1942 and still in grass or rye in 1943, provided that the acreage in grass in 1943 is additional to the basic acreage. The term "basic acreage," for the purpose of the Act, means the acreage as of July 1 in any year.

Plebiscite.—C. 1 is an Act respecting the taking of a plebiscite in every electoral district, and of the votes of Canadian Service voters within and without Canada, on the question: "Are you in favour of releasing the Government from any obligation arising out of any past commitments restricting the methods of raising men for military service?" The Dominion Plebiscite Act, 1942, as it is called, assented to March 5, 1942, authorized the Governor-in-Council by proclamation to order the taking of a vote on this question. The plebiscite was held on April 27, 1942, and it will be recalled that it resulted in a substantial majority of votes being polled for the affirmative.

Grant to United Kingdom.—C. 8, The War Appropriation (United Kingdom Financing) Act, 1942, authorizes the payment to the Bank of Canada for the account of the Government of the United Kingdom of the sum of $1,000,000,000, to enable it to purchase in Canada aircraft, tanks, munitions, foodstuffs and other commodities and supplies essential to the conduct of the war. Provision is made by the Act for the acquisition by the Canadian Government of sterling balances and for the transfer of such balances to the Government of the United Kingdom, and for the purchase by the Canadian Government of Canadian securities held by the Government of the United Kingdom.

National Service.—C. 29, an Act to amend the National Resources Mobilization Act, 1940, follows upon the plebiscite referred to above. S. 2 of the Act of 1940

authorized the making by the Governor-in-Council of such orders and regulations requiring persons to place themselves and their services and property at the disposal of His Majesty, as might be deemed necessary or expedient in the prosecution of the war. By s. 3 it was declared that these powers might not be exercised for the purpose of requiring persons to serve with the forces outside of Canada. By the National Resources Mobilization Act Amendment Act, 1942, s. 3 of the original Act is repealed.

War Risks Insurance.—As its name indicates, The War Risk Insurance Act, 1942 (c. 35), is an Act to provide for the insurance of property against war risks and the payment of compensation for war damage. " Property " here means buildings, machinery, fixtures or other structures erected on land and all movable property, but does not include the land itself or things growing thereon, or ships or vessels other than those under construction in Canada, or ships' gear and tackle or their cargoes, other than the cargoes of ships engaged in the inland trade. Neither does it include money, negotiable instruments or other evidence of title or indebtedness. " War damage " includes damage occurring, accidentally or otherwise, as the direct result of enemy action or in combating the enemy or in repelling an imagined enemy attack. It also includes damage resulting directly from measures taken to prevent the spreading of such damage or to prevent, hinder or anticipate enemy attack, and damage caused by the explosion of munitions being manufactured, stored or transported in Canada. The latter class of risk recalls the calamitous Halifax explosion of the First World War. The Act authorizes the Minister of Finance to issue insurance against such risks, and to pay compensation in the amount, not to exceed $3,000, of the diminution of value of the dwelling house owned by the insured and in which he resides. Compensation may in addition be paid in respect of damage to chattels, but no payment in respect of any one article shall exceed $100, or $250 in the case of works of art, jewellery or other such valuable objects. No payment at all shall be made unless the total amount of the claim is in excess of $50. The Act provides for the creation of a " War Damage Insurance Special Account " wherein all premiums received shall be deposited and from which all claims and costs shall be paid. It also authorizes the transfer to this account of the sum of $5,000,000 from the Consolidated Revenue Fund.

The Armed Forces and Postwar Rehabilitation.—C. 31 (The Reinstatement in Civil Employment Act, 1942) makes it obligatory upon the employers of persons accepted for service in the forces to reinstate such employees on the termination of their service under conditions not less favourable than those which would have obtained had their employment not been interrupted by the war. For the purpose of the Act and of any regulation to be made thereunder service in the forces means service in the present war in the naval, military or air forces, including the Canadian Women's Army Corps, as a merchant seaman, and as a member of the Corps of (Civilian) Canadian Fire Fighters for Service in the United Kingdom.

The Veterans' Land Act, 1942, is enacted by c. 33. Eligibility for assistance under the new Act is confined to members of the Canadian Forces who have served in a theatre of war and to those who have served at home for at least twelve months, to Canadians who enlisted in the Imperial forces and particularly in the R.A.F., and to merchant seamen who have suffered pensionability. Non-Canadian members of the Empire forces or of allies are not included, as the Act provides for a conditional grant from the Canadian people and it is a question for other Governments to decide whether they wish to provide similar grants to enable their ex-servicemen to settle in Canada. S. 9 places the cost ceiling for any veteran at $4,800 (the land not to exceed $3,600 and the livestock and equipment $1,200), but there is no ceiling on the price of the land if the veteran is in a position to pay all costs in excess of $3,600, it being felt that the man with some capital should not be held to the smaller farm. The veteran is

required at the time of the contract to make an initial payment of ten per cent. of the entire outlay, the theory being that unless there is a modest initial investment the whole establishment lacks the anchorage or stability necessary to resist adversity. Interest on the balance is to be at the rate of 3½ per cent., and payment of the balance may be extended over a term of 25 years on the amortization plan, but provision is made for certain variations of the manner of payment in the interest of flexibility. The purchaser is prevented from selling the land or chattels within a period of ten years except upon repayment in full of the total outstanding cost. Loans under this Act will not be made to persons indebted to the Government under the Soldier Settlement Act set up at the close of the First Great War. Provision is made for the appointment of regional committees to advise with respect to the qualification of applicants, the selection of lands, and any other matters that may be referred to them.

C. 34 introduces The Vocational Training Co-ordination Act, 1942. It authorizes the Minister of Labour to undertake projects to provide, *inter alia*, the training necessary to fit persons for employment for any purpose contributing to the prosecution of the war whether in industry or in the armed forces, and to fit for gainful employment former members of H.M. Canadian Forces or former members of any of H.M. Forces who at the time of their enlistment were domiciled in Canada. With the approval of the Governor in Council the Minister may also enter into agreements with the provincial governments to provide financial assistance for such projects. The Act envisages the appointment of a vocational training advisory council comprising equal numbers of members representing employers and employees to whom may be referred any matters relating to the operation of this enactment.

Civil Service.—C. 24 amends s. 4 of the Department of External Affairs Act, R.S.C., 1927, c. 65, by providing that former civil servants appointed to diplomatic and consular posts will not lose their status as permanent civil servants or the rights they may have acquired as such under the Civil Service Superannuation Act. Such appointees shall continue to be contributors under the Superannuation Act and their service shall be counted as service in the Civil Service. A number of such appointments have already been made.

Customs and Excise.—A number of changes have been made in the Customs Tariff by c. 23. They include substantial increases in the rates of additional customs duties on spirits, ales and wines, the additional duty on spirits being increased from $3 to $5 a gallon. Similar increases are introduced by c. 27 which amends The Excise Act, whereby the rate per gallon on spirits distilled in Canada is raised from $7 to $9. The rates on beer, malt, malt syrup, tobaccos, cigars and cigarettes have also been substantially increased. These various changes became effective on June 24, 1942.

The Special War Revenue Act, R.S.C., 1927, c. 179, which originated during the First World War and has continued since that time to be an important source of revenue, has been further amended by c. 32. The outstanding changes consist of the introduction of two new headings—Parts XVI and XVII. The first of these imposes a new tax on certain places of entertainment. This is at the rate of 20 per cent. and is levied on the admission price, cover charge, charge for meals or refreshment service, which is payable by all persons attending any dance hall, night-club, cabaret or similar place of entertainment. Part XVII imposes a retail purchase tax of 25 per cent. on certain goods purchased or imported by the consumer or user. This new tax is to be paid in addition to any other duty or tax that may be payable on such goods, which include trunks, luggage and other like articles, clocks and watches, glass and chinaware, objects of personal adornment, fountain pens, pencils and smokers' accessories. The amending Act also increases the rates of the tax on insurance premiums, on telegraph messages and long-distance telephone charges, and a new subsection imposes a monthly tax of 25 cents for each domestic telephone extension.

Increases are made in the rates on railway, steamship, bus and aircraft transportation and on pullman and parlor car tickets, and to the rates on tobaccos, cigars, cigarettes, cigarette papers, bottled beverages and playing cards. The tax on sugar is extended to that used in the manufacture of confectionery. A new excise tax of 25 per cent. replaces the former consumption or sales tax of 12 per cent. on dressed and dyed furs. Most of these changes, including Part XVII, became effective on June 24, 1942. Part XVI came into force on July 1, 1942.

Evidence.—C. 19 amends the Evidence Act, R.S.C., 1927, c. 59, by the introduction of a new section (s. 29*a*) making admissible in evidence prints from photographic films of documents and records held by any government or corporation (as defined by the amending Act) or which were held by such government or corporation and destroyed, lost or delivered to customers after the films were made. Such prints, on proof of compliance with the conditions prescribed, shall be admissible in evidence in all cases and for all purposes for which the objects photographed would have been received. It is considered that the extended use of microphotographic and other photographic films in this way will result in the saving of considerable storage space by governments and the larger corporations. Similar legislation has already been enacted by five of the provinces.

Finance.—The Dominion-Provincial Taxation Agreement Act, 1942 (c. 13) authorizes the Minister of Finance to enter into agreements with the several provincial governments whereby the provinces and their municipalities shall cease for the duration of the war and for a certain readjustment period thereafter to levy personal income and corporation taxes, thus leaving these fields exclusively to the Dominion Government. The Act specifies the amount to be paid annually by the Dominion to each province as compensation for its withdrawal from the fields of personal income and corporation taxation, and declares that it shall come into force on March 15, 1942.

The Maritime Provinces Additional Subsidies Act, 1942 (c. 14), provides for the payment of special additional annual subsidies to the Provinces of Nova Scotia, New Brunswick and Prince Edward Island. It will be recalled that the claims of the Maritime Provinces were the subject of an inquiry by a Commission appointed in 1926 and headed by Sir Andrew Rae Duncan, which made certain recommendations with regard to the readjustment of the financial arrangements between the Dominion and these provinces. In 1934 a Commission headed by Sir Thomas White was constituted to take into consideration and deal with the recommendations of the Duncan Commission. The present Act implements the recommendations of the White Commission regarding the revision of the financial arrangements between the respective governments and the special additional subsidies authorized thereby are considered as a final and equitable settlement of these claims.

The Succession Duty Act, c. 14 of the Statutes of 1940-41 (*Review of Legislation*, p. 52), has been amended in some respects by c. 25. Most of the changes now introduced are required to clarify various sections, although in some cases they draw the lines a little tighter by the elimination of exemptions not originally intended. However, a testator may now dispose of half of his entire estate to charitable organizations clear of duty, as opposed to the previous provision exempting one-half of the amount of each individual bequest. A new provision protects against action by successors executors who elect to pay the duties within the time prescribed. The amendments are made to apply retrospectively to June 14, 1941, that is to the date the Act originally came into force.

The Excess Profits Tax Act is amended by c. 26, which substitutes a new schedule of rates for that previously in force. The first part of the new schedule provides for a tax at the rate of 10 per cent. of the profits of corporations and joint stock companies and 15 per cent. of the profits of persons other than

corporations, before deduction of any tax paid thereon under the Income War Tax Act. By the second part of the schedule the rate of the tax on excess profits is set at 100 per cent. The Third Part imposes a tax of 12 per cent. of the profits of corporations and joint stock companies before deduction of any tax paid thereon under the Income War Tax Act. S. 3 of the Act, as amended, provides for the assessment of every person carrying on business in Canada of (*a*) a tax in accordance with the rates set out in the Third Part on profits during the taxation period; and (*b*) a tax based on the rates set out in the First Part or the Second Part upon the profits or the excess profits respectively during the taxation period, whichever of such taxes is the greater. The section declares, however, that the tax provided in the Third Part shall not apply to persons other than corporations, and that the tax exigible under the First Part shall in no case operate to reduce the profits of a taxpayer below $5,000. Provision is made by s. 18, as amended, for the refund to the taxpayer after the war of an amount equal to 20 per cent. of the profits above the point at which the tax calculated under the First Part is equal to the tax calculated under the Second Part. Provision has also been made for the fair assessment of abnormally depressed businesses and of new businesses to which the application of the standard profits rule would work hardship or result in discrimination.

The exigencies of war and the need of increased revenues are the cause of further demands on personal incomes. By c. 28 the rates leviable under the Income War Tax Act have been raised to new heights, and their application extended to all persons whose incomes during the taxation year exceeded $660, so that practically every working adult in the Dominion becomes a contributor. As indicated above (see note on The Dominion-Provincial Taxation Agreement Act, 1942) the way has been cleared for the exclusive occupation of the income tax field by the Dominion Government. This, together with the deductions that may be made in respect of voluntary savings, life insurance premiums and annuities and unusual medical expenses, and the provision for the payment of the tax by instalments or by monthly deductions from the taxpayers' salary cheques, should result in an appreciable softening of the impact which, on the whole, is the stiffest dose of taxation legislation that Canadians have yet had to absorb. The provision for the refund after the war of a proportion of the tax should be of value in tiding some taxpayers over the anticipated difficulties of the immediate post-war period.

Marking of Precious Metals.—Two changes are made by c. 6 to the Precious Metals Marking Act, R.S.C., 1927, c. 84. The first amends paragraph (*a*) of s.s (6) of s. 10 (as enacted by s. 7 of c. 14 of the Statutes of 1934) by declaring that the word " gold " in any form or combination of words or the phrase " Gold Filled " shall not be applied to any article manufactured in or imported into Canada composed in whole or in part of materials of quality less than that known to the trade as 1/20—10K with an allowance of 10 per centum leeway on assay and wherein the gold is not soldered to or sweated on the base metal. The second change amends paragraph (*a*) of s.s (8) of s. 10 (as enacted by s. 2 of c. 8 of the Statutes of 1940-41) by providing that the same terms shall not be applied to any part of any spectacle or eye-glass assembly manufactured in or imported into Canada composed of materials of quality less than that known to the trade as 1/10—12K with an allowance of 10 per centum leeway on assay and wherein the gold is not soldered to or sweated on as above. In both of these amendments the only change is the substitution of " 10 per centum " for " 5 per centum " with respect to the leeway allowance on assay.

By c. 30, paragraph (*b*) of s.s. (7) of s. 10 of the Act inadvertently repealed by c. 8 of the Statutes of 1940-41, is restored as of the date of the amending Act by which it was repealed. This paragraph provides that the word " gold " or any carat mark or any word indicating gold or its fineness or colourable

imitation thereof shall not be applied to any watch cases manufactured in or imported into or offered for sale in Canada of a quality lower than that fixed by paragraph (*a*) of this subsection.

Petroleum and Naphtha.—The Petroleum and Naphtha Inspection Act, R.S.C., 1927, c. 159, is repealed by c. 16. Practically all the operative provisions of this Act have been superseded by other Acts and regulations of municipal, provincial or federal origin so that the Act itself, which originated in 1877, has become obsolete and of no further usefulness.

Railways.—The Canadian National Railways Financing and Guarantee Act, 1942 (c. 22) is an Act to authorize the provision of moneys to meet certain capital expenditures made and capital indebtedness incurred by the Canadian National Railways system during 1942, to provide for the refunding of financial obligations and to authorize the guarantee by the Government of Canada of certain securities to be issued by the company. The company is authorized to issue bonds or other securities not exceeding $22,360,000 in principal amount for these purposes, and the Governor-in-Council may guarantee the principal, interest and sinking funds of the securities to be issued. There is a provision authorizing the Minister of Finance, with the approval of the Governor-in-Council, to make temporary loans to enable the company to meet authorized expenditures and to purchase or refund its securities. These temporary loans are to be secured by securities which the company is by the Act authorized to issue.

C. 12 appoints George A. Touche and Company, of Toronto and Montreal, as independent auditors for 1942, to make a continuous audit of the accounts of National Railways as defined in The Canadian National-Canadian Pacific Act, 1933.

2. ALBERTA[1]

SIXTY-FIVE Acts were passed of which some contained only minor amendments.

Revised Statutes.—C. 3 is a new Act. It provides for the revision and consolidation of the Statutes of Alberta. A draft of the revision has been prepared by the Acting Legislative Counsel under the direction and supervision of the Attorney-General. This draft, which appears in galley proof form, is complete except for the Statutes which it is proposed to include in Volume IV, being Statutes relating to the constitution and boundaries of the Province, relevant Imperial and Canadian Statutes, appendices and indices and things of a like nature. The Statutes and amendments passed at the 1942 Session of the Legislature also had to be included in the Revision. This Act gives the Acting Legislative Counsel power to continue and complete the work which he had begun. When the work has been completed he is required to submit it through the Attorney-General to the Lieutenant-Governor-in-Council who is empowered to print the revision. One of the original copies, to be known as the Statute Roll, is to be deposited with the Clerk of the Legislative Assembly, and this copy shall be deemed to be the original Statute Roll of the Acts contained in the Revised Statutes. The Lieutenant-Governor-in-Council may then bring the Revised Statutes of Alberta, 1942, into force upon a date to be named by proclamation. On, from and after the named date the Revised Statutes repeal and replace the existing Statutes of the Province to the extent that they are incorporated in the Revised Statutes of Alberta, 1942, or in the Schedules thereto.

The remaining sections of the Act are largely for the purpose of providing for a smooth transition from the law at present in force to the law contained in the revision.

University.—C. 4 is a consolidation of The University Act with certain amendments. In the main it follows closely the provisions of the old Act. The

[1] Based upon the Synopsis prepared by W. S. Gray, Esq., K.C., Acting Legislative Counsel and Law Clerk.

principal differences are in the provisions relating to the powers of the various governing bodies of the University. Under this Act the Board of Governors will consist of 13 members, of whom six will be *ex officio* members as set out in s. 12, the other seven members are to be appointed by the Lieutenant-Governor-in-Council.

The composition of the Senate is reduced by the Act from over 50 members to 25, 16 of whom are to be *ex officio* members as set out in s. 31. There are to be nine appointed members who will represent agriculture, business, labour, industry, public education and organizations devoted to social and cultural welfare. These latter members will be appointed by the statutory members of the Senate. Certain academic powers of the Senate have been transferred to the General Faculty Council whose powers are set out in s. 61 (2).

The Act also continues the different Faculty Councils whose powers are set out in s. 64.

S. 65 gives statutory authority to the Deans' Council, which authority was not contained in the old Act.

New provisions are added in s. 66 dealing with the Department of Extension. Authority is given in s. 68 for the appointment of a business manager of the University with the title of Comptroller or such other title as the Board of Governors shall determine.

Legal Proceedings Suspension.—C. 5 is to stay all proceedings to which The Debt Adjustment Act applies, pending the determination of the appeal to the Judicial Committee of the Privy Council in order that the rights of debtors may be preserved and to prevent confusion in the law as to the rights of creditors and debtors during that time.

Finance.—The purpose of C. 6 is to authorize cities, towns, villages, municipal districts, school divisions and school districts to invest surplus funds in Dominion Government War Loans. The Act also validates Order in Council No. 781 of 1941 dated June 4, 1941, as amended, which authorized, subject to validation, municipalities and other public bodies to invest surplus funds in the 1941 loan.

Natural Resources.—C. 8 validates an agreement made on the sixteenth day of March, 1942, between the Government of Canada and the Government of Alberta. The agreement, which amends the Natural Resources Transfer Agreement, also has to be validated by Parliament. It is appended as a schedule to this validating Act. The object of the agreement is to extend the jurisdiction of the Legislature over contracts to purchase or lease petroleum or natural gas, subject to certain conditions and restrictions as to the royalty to be collected which are set out in the agreement.

Corporation Income Taxes.—C. 9 authorizes the Provincial Treasurer to execute on behalf of the Province the Agreement proposed to be made with the Dominion Government with regard to the suspension of corporation taxes and income taxes in consideration of a lump sum to be paid annually by the Dominion to the Province.

CC. 23, 25 and 53 were due to the same agreement.

Old Age Pensions.—The purpose of c. 10 is to authorize the Government, through the Pension Authority, to pay an additional allowance of $5 per month to old age pensioners and blind pensioners resident in Alberta, who were granted their pensions by the Alberta Pension Authority.

Emergency Seed Grain Purchase.—C. 12 authorizes the Minister of Agriculture from time to time to purchase the seed of grains, cereals, legumes, grasses or fibres, and sell the same for cash to farmers in areas where there may be a shortage of seed. The amount which may be so expended in any one year shall not exceed $100,000.

Thresher Employees' Lien Repeal Act.—The special rights and privileges granted by The Thresher Employees' Lien Act are not used to any appreciable extent. It was deemed advisable that the Act should be repealed by c. 13.

Thresher employees still have recourse to the ordinary remedies provided by law for recovery of their wages.

Farm Cultivation Lien.—The provisions of The Farm Cultivation Lien Act have not been used to any very great extent, and it was deemed advisable to repeal it by c. 14. Apparently there is little need for the special rights granted thereby, and contractors will, of course, still have their ordinary legal remedies for recovery of moneys owing to them.

Industrial Disputes Investigation.—The Act of 1928 repealed by C.15 provided that The Industrial Disputes Investigation Act of the Dominion should apply to every industrial dispute defined in the Act which was within the exclusive legislative jurisdiction of the Province. The object of the Act was to support the Dominion jurisdiction over labour disputes even in cases where Parliament had no authority. From time to time uncertainty has arisen as to whether the Province or Dominion had jurisdiction in certain labour disputes. The repeal of the above Act will clarify the situation and make it clear that The Provincial Industrial Conciliation and Arbitration Act applies in all cases in which the Province has jurisdiction.

Land Sales Prohibition.—C. 16 is a new Act. It prohibits the purchase of lands by an enemy alien or Hutterite or any person on his behalf, or the registration of lands in the name of an enemy alien or Hutterite or any person on his behalf. It is the intention to prevent these people from buying land or from becoming registered as the owners of land at least until after the war is over. Penalties are provided for infraction of the provisions of this Act.

Vital Statistics.—C. 21 amends The Vital Statistics Act, 1942. In a majority of cases an adopted child is not aware of the fact that its foster parents are not its natural parents. Knowledge of this fact is usually concealed by the foster parents until a birth certificate is required. Although the present certificate does not disclose the original parentage of the child, the fact of adoption is made known by implication as no reference to parentage appears on the certificate. It is deemed advisable that the foster parents of an adopted child should be shown on the child's birth certificate as its natural parents.

Fuel Oil Tax.—At the present time the full cost of colouring fuel oil which is sold for use on farms for agricultural purposes and in industry is borne by the Government. The object of c. 24 is to authorize the Lieutenant-Governor-in-Council to make regulations providing, among other things, for a portion of the expense, namely the cost of the dye, to be borne by other persons to be designated by the regulations.

Provincial Lands.—The purpose of the new section 42*a*, introduced by c. 28 into the Provincial Lands Act, 1929, is to give the Province a lien on the plant and equipment of companies operating mineral leases for amounts owing for rental and royalties. No such security now exists and it sometimes happens that other creditors who have security take all the assets of such a company and deprive the Province of its rents and royalty. The section also makes it an offence for a company to remove its machinery, etc., from the premises until rental and royalties are paid.

The Minister is empowered to agree in writing that equipment may be placed upon a location without becoming subject to the lien. He is also empowered to permit the removal from a location of equipment subject to a lien, in which case the lien will cease and determine. Moneys owing to the Workmen's Compensation Board may be collected under the lien and priorities of payment are established in the event of this being done.

Constitutional Questions.—The object of c. 35 is to make it clear that a reference to the Court under the Constitutional Questions Act is to be to the Appellate Division of the Court. This has been the practice at all times since the Appellate Division was first created. The Act is made retroactive to the date

when the Appellate Division was constituted as a separate division under that name.

District Courts.—C. 36 is to enable a Chief Judge to be appointed for each of the Courts established under The District Courts Act, namely, the District Court of Northern Alberta, and the District Court of Southern Alberta.

Judicature.—C. 37 amends The Judicature Act and provides a statutory period of redemption of one year under orders made in the actions for foreclosure of a mortgage or for specific performance of an agreement for sale, with power to the judge to decrease or increase the period of redemption for proper cause.

Limitation of Actions.—C. 38 amends The Limitation of Actions Act. S. 7 is amended to make it clear that a promise to pay, acknowledgment or part payment has the same effect on a judgment debt as on an ordinary debt.

S. 12 is amended to conform to The Judicature Act, which abolished proceedings for recovery of money under a personal covenant contained in a mortgage on land. Reference to moneys secured by any mortgage are accordingly omitted. The limitation period in the section is also reduced from ten to six years.

Soldiers' Relief.—C. 39 inserts a new section empowering the Lieutenant-Governor-in-Council to appoint a Soldiers' Relief Commission of not more than three members. The duties of the commission are set out.

Schools.—C. 42, by an amendment to subsection (1) of s. 143 of the School Act, 1931, omits the words "standard time." It also clarifies the present power of the Board to alter school hours upon receiving the permission of the Minister. This power is particularly necessary in northern districts during the winter months. Many outlying schools have inadequate or no lighting facilities and it is inadvisable to have the children coming to school while it is still dark. In such cases the Board, on the permission of the Minister, can open the school at 9.30 or 10, if necessary.

The new ss. 147 and 147*a* provide for the opening of schools by the reading, without comment, of a passage of scripture followed by the recitation of the Lord's Prayer. Religious instruction is only permitted in the one half-hour immediately preceding the closing of the school in the afternoon.

School Assessment.—C. 43 is an amendment to The School Assessment Act which authorizes a rebate on school taxes paid within sixty days from the date of mailing of the tax notice. Certain school districts send out their tax notices in the middle of the summer, which prevents ratepayers getting the discounts authorized by 39*a* on payments made before June 1. The object of the amendment is to extend the privilege to these ratepayers of a rebate in such cases. The amendment brings The School Assessment Act into line with the provisions of The Municipal District Act.

Municipal Hospitals.—The amendment by c. 46 to s. 12*a* is to limit free medical services under the scheme to hospital supporters and their dependants. Other residents of the Hospital District would be the responsibility of the municipality in which they reside.

Mental Defectives.—S. 14 of The Mental Defectives Act places the responsibility for support of mental defectives in an institution on municipalities with the right to recover from persons legally responsible for the maintenance of such persons. The object of c. 47 is to enable municipalities, in cases where the mental defective has property, to recover the outlay from him and to enable it to file a caveat against lands owned by him and also to distrain on the goods of the person legally responsible for his support.

Dower.—S. 3 of The Dower Act declares a disposition of the home by a married man without the consent of his wife null and void. The Courts have interpreted this to mean that it is only null and void as against the wife's life estate which becomes effective only on the husband's death. This means that the husband may dispose of the home subject to this estate. The purpose of c. 51 is to

make the section mean what was intended, that is, to make any such disposition null and void for all purposes.

Marketing Boards.—The amendments by c. 56 to the Alberta Marketing Act are for the purpose of extending the powers of the Provincial Marketing Board and other Boards to enable them, with the approval of the Lieutenant-Governor-in-Council, to create branches or agencies to assist in the operations of the Board and to acquire and hold real and personal property and to dispose of the same.

Credit Unions.—The new subsections added by c. 57 to s. 10 of the Credit Union Act provide procedure for the changing of the name of a credit union. Certain credit unions adopted the name of their labour union. Where there are two labour unions the choice of name has caused difficulty in getting as large a membership as might otherwise be available. This provision for a change of name is in keeping with recognized procedure in other types of corporations.

S. 55 is amended so as to remove the absolute prohibition of an officer of the union from disposing of his shares. Having this prohibition in mind many capable members of a credit union avoided taking office. The amendment permits directors or other officers to dispose of their shares with the approval of a two-thirds majority of the officers of the union. The liability to the creditors of the union is preserved for a period of four months after any such disposition of shares.

S. 79 is amended to enable the incorporation of federations of credit unions and to clarify the power of the Lieutenant-Governor-in-Council to make regulations relating thereto.

Vehicles and Highway Traffic.—It is anticipated that there will be considerable difficulty in obtaining metal number plates for motor vehicles. The new section 30*a* and the new paragraph added to section 77 of the Vehicles and Highway Traffic Act, 1941, by c. 59 will enable the Minister to issue a marker or a single number plate in lieu of the plates presently required. The form, design and manner of display of the marker will be covered by regulations. The marker will be of plastic or any other material which may be secured, and which would be suitable for the purpose.

Solemnization of Marriage.—From time to time applications are made to the Courts for declarations presuming death so as to permit re-marriage or for other purposes. In some cases the Courts have been assuming this power and the applications have been granted, and in other cases the applications have been refused on the ground of lack of jurisdiction. It is in the public interest that this situation be clarified. C. 65 gives statutory authority for the exercise of this jurisdiction. It is in the same terms as an amendment recently made in England, except that it does not purport to authorize the dissolution of the marriage.

3. BRITISH COLUMBIA

[*Contributed by* H. G. Lawson, Esq., K.C.]

Fifty-two Acts were passed during the Session.

Taxation.—C. 7 ratifies the agreement between the Province and the Dominion whereby the Province agreed to surrender to the Dominion the right of taxation during the continuance of the war.

Evidence.—C. 9 is similar to the Dominion Act (*supra* p. 22) with the addition of s. 3 which deals with proof of death of members of the Armed Forces.

Civil Defence.—C. 27 confers powers upon municipalities to take precautions against hostile enemy attacks.

Post-War Rehabilitation.—C. 33 makes provision for rehabilitation, industrial reorganization and employment projects to meet post-war conditions.

4. MANITOBA

THE Review of its Legislation was included in the last issue.

5. NEW BRUNSWICK

[*Contributed by* J. EDWARD HUGHES, ESQ.]

EIGHTY-SIX Acts, including Local and Personal, were passed during the year.

Taxation.—C. 6 approves the agreement entered into between the Government of the Dominion and the Government of the Province to reserve certain taxation exclusively to the Dominion for the period of the war.

Credit Union League.—The New Brunswick Credit Union Societies Act, being c. 53 of 1 Edward VIII (1936), provides for the incorporation of societies to be known as Credit Unions for the purpose of promoting thrift among its members and of creating a source of credit for its members, at legitimate rates of interest, for provident and productive purposes.

C. 45 constitutes the Credit Unions which are members of an organization known as The New Brunswick Credit Union League and such other Credit Unions as may thereafter acquire membership in the League as a body corporate under the name of The New Brunswick Credit Union League. Among the objects and purposes of the Incorporated League is the promotion of the organization and development of Credit Unions and the encouragement of co-operation among them.

Tort-Feasors.—C. 57 is practically a re-enactment of the English Act. It provides (*a*) that a judgment recovered against any tort-feasor shall not be a bar to an action against another liable jointly, and (*b*) that if more than one action is brought the damages shall not in the aggregate exceed the amount of the damages awarded by the first judgment, and (*c*) for contribution between joint tort-feasors.

Magistrates.—Under existing legislation the Governor-in-Council is empowered to appoint magistrates for cities, towns and parishes within a County. C. 58 authorizes the Governor-in-Council to appoint a magistrate and one or more deputy magistrates for any County in the Province. Every magistrate and deputy magistrate appointed under this Act may exercise anywhere within the County for which he is appointed all the powers, authority, criminal jurisdiction, quasi criminal jurisdiction and civil jurisdiction vested in him. Both the criminal and civil jurisdiction of magistrates and deputy magistrates appointed under this Act are greater than that of former magistrates.

6. NOVA SCOTIA[1]

FIFTY Public General, 15 Local and 18 Private Acts were passed during the year.

Taxation.—C. 2 is the Dominion-Provincial Agreement Act passed in similar terms to that in other Provinces to carry out the agreement with the Dominion (*supra p.* 22).

Scalers.—C. 7 provides in effect that no person shall act or be employed as a scaler unless he holds a licence issued under the provisions of The Scalers' Act. If the Minister of Lands and Forests is satisfied that the services of a licensed scaler are not procurable he may issue a special licence to a competent person authorizing him to act in that capacity.

The Act provides for a Board of Examiners, consisting of three persons, who shall conduct examinations and recommend successful candidates to the Minister for a licence. Any person who is a scaler at the time of the coming into force of The Scalers' Act may be exempted by the Board from writing the examination,

[1] Based upon the Review prepared by the Hon. G. E. Romkey, Speaker of the House of Assembly, for the Annual Convention of the Union of Nova Scotia Municipalities.

provided that such person has had at least five years' experience in scaling and measuring timber.

The municipality may continue to regulate the measuring of lumber and fix the charges therefor, but a person so appointed must be a licensed scaler, except where the Minister is satisfied that the services of a licensed scaler are not procurable.

Housing.—C. 12 authorizes any city, town or municipality in the Province to enter into and carry out an agreement with the Federal authorities or with Wartime Housing, Limited, relating to the construction of certain accommodation and the supplying of services thereto.

Automatic Machines.—C. 13 authorizes any city, town or municipality to make by-laws regulating and licensing any automatic vending machine and fixing the fees to be paid for any such licence.

Constables.—C. 19 adds a new section to The Constables' Act to facilitate the appointment of constables for the purposes of civilian protection and defence in wartime. While the terms of the amendment are broad, it is anticipated that the section will be used almost exclusively to appoint A.R.P. wardens as constables, since certain duties under the Defence of Canada Regulations relating to the enforcement of lighting orders must be carried out by a constable.

Education.—The amendments to The Education Act in c. 21 fall into two main groups, and the first group consists of the amendments to the existing Act, which are not of far reaching importance.

The second portion of the Act adds a new part, known as Part IV of The Education Act. This part authorizes the appointment of the municipal school board for the municipality provided that the majority of the school sections in the municipality have so requested the council to act.

When a municipal school board has been established, the board has all the powers and duties of the district board or boards for such municipality, and a district board or boards theretofore in existence are dissolved.

The district board does not do away with the local school trustees, but these trustees continue to have all the powers and duties set out under The Education Act, except in so far as these powers and duties may be modified by the new Part IV.

The trustees of each school section are now obliged to submit to the municipal board the estimates of expenditure which have been approved at the annual school meeting. The municipal council of any municipality which adopts the new provisions must pay to the municipal school board a sum equal to 90 per cent. of the amount which would have been raised if the median tax rate in all the school sections was levied on all real and personal property in the municipality. This figure is to be determined having regard to the figures for the year immediately preceding the establishment of a municipal school board, and is to remain constant for a period of three years, after which time it may be reviewed and changed after every further three year period.

The Act provides for the creation of the Provincial Equalization Fund, and any additional moneys which the municipal school board may require to carry on the minimum school programme is to be defrayed from this Equalization Fund.

In addition to the other powers to raise money for educational purposes, a municipal council may impose a special educational poll tax of not less than $2 nor more than $5 on all male residents between 21 and 60 years of age who are not otherwise assessed in respect of real or personal property. This poll tax may not be imposed, however, except with the approval of the municipal school board.

Children's Protection.—The amendments to The Children's Protection Act by c. 25 provide in effect that the Province may annually pay to any Children's Aid Society a sum of money equal to the combined sums paid to the Society during the year by any city, town or municipality under the existing provisions

of the Act, provided that the total amount so paid from the Provincial Treasury shall not exceed $1,000 in any one year.

The Province is further authorized to pay to every Children's Aid Society a sum of money equal to the sum collected by it during the year from private persons and expended for the general purposes of the Society other than the cost of maintenance of children. There is a proviso to this provision also that the sum paid by the Province shall not in any one year exceed $1,000, and there is a further proviso that the sum so collected by the Children's Aid Society shall not be less than the average sum collected during the two preceding years.

Municipal Courts.—The amendments by c. 27 to The Municipal Courts Act should be read together with certain amendments to the Halifax City Charter and to the City of Sydney Charter.

The purpose is to extend the jurisdiction of city and town civil courts to the whole county in which such courts are situated, except for cases already falling within the jurisdiction of some other civil court, and further to enable the issuance of a writ to be refused by a magistrate when he considers that it should be applied for to some other court.

The Act further provides that all proceedings under The Collection Act in respect of judgments of any city or town court are to be taken before the person presiding in such court. Thus, there will be available a court of record for the trial of certain cases which at the present time must be tried in a Justice's Court or in the County Court, if such cases arise outside a city or town.

Mothers' Allowances.—The purpose of the amendment by c. 35 to The Mothers' Allowances Act is to extend the benefits of the Act to cases where the husband is not dead but is an inmate of a public institution for the treatment of tuberculosis or for the treatment of the insane.

Hereafter a mother with two or more children, whose husband is in a tuberculosis sanitarium or a mental institution will be in the same position as regards mothers' allowances as if she were a widow.

A further amendment is made to the Act providing in effect that for the purpose of The Mothers' Allowances Act an adopted child is deemed a natural child of the mother.

Motor Vehicles.—The most important change made by c. 37 is the addition of a new section, 87*a*, to The Motor Vehicle Act which makes it an offence for any person to drive any motor vehicle at a rate of speed in excess of forty miles an hour. There is now for the first time for a number of years an absolute maximum speed limit which must under no circumstances be exceeded.

For the conservation of metal required for licence plates, motor vehicles may now be operated with only one licence plate, which is to be attached to the rear of the vehicle.

Lands and Forests.—A new section is added by c. 39 to The Lands and Forests Act by which it is provided that notwithstanding any term or condition of any lease on timber lands issued by the Crown, every lessee of such lands shall within ten days of the commencement of any cutting operations on such lands give notice in writing to the Minister stating that such cutting operations have been commenced and specifying the lands affected.

A further section is added to the Act, s. 104*a*, to provide the Department with certain statistical information. The owner or operator of every mine, creosoting plant, pulp mill, paper mill or saw mill within the Province and every exporter of lumber from the Province, and every user of piling or poles within the Province must now deliver to the Department within the time prescribed by order, a return containing such information as the Minister may from time to time require.

By further amendment to the Act any person who buys or otherwise acquires for resale any tree to be used as a Christmas tree must now hold a licence from the Department of Lands and Forests. The application for the licence must

contain such information as the Department may require. The purpose of the section is to gather statistical information, and the licence fee must not exceed $10 a year.

By the addition of another section the Department is authorized to pay to any person for the destruction of any bear killed by such person a bounty or reward of the same amount as the bounty, if any, payable to such person by the municipal council of the municipality in which such bear was killed.

Assessment.—By the amendment, made by s. 1 of c. 42, the poll tax may be increased by the town council by by-law to a sum not exceeding $10. A number of the towns of the Province felt that with the influx of casual workers who are not rated within the town a maximum poll tax of $5 was insufficient and this amendment authorizes a town to impose a tax not in excess of $10.

Highways.—The most important change made in The Highways Act by c. 47 is that it authorizes the Minister of Highways to make an agreement with any municipality for the removal of snow from the main trunk highways of the Province or such other highways as the Minister may agree to clear of snow. The municipalities are authorized to impose a special tax to defray the cost of snow removal, and this tax may be imposed in respect of all or any class or classes of persons or property within the municipality.

All sums of money collected by or paid to a municipality pursuant to these provisions shall be kept in a separate fund to be known as the Snow Removal Fund and shall not be used for any other purpose. Thus, if a special tax is imposed in any year or if moneys are paid to the municipality and not used during the year they shall be kept in a separate account and may be used for snow removal purposes in another year.

7. ONTARIO

[*Contributed by* KENNETH G. MORDEN, ESQ.]

OF the Acts passed, 41 were Public, and 19 Private.

Taxation.—The Corporations and Income Taxes Suspension Act (c. 1) authorizes the Treasurer of Ontario to sign on behalf of the Province the agreement with the Dominion made with the Provinces (*supra* p. 22).

Escheat.—C. 14 provides that "where any property has become the property of the Crown by reason of the person last seised thereof or entitled thereto having died intestate and without lawful heirs, or has become forfeited for any cause to the Crown, the Public Trustee may cause possession thereof to be taken in the name of the Crown, or if possession is withheld may cause an action to be brought for the recovery thereof, without an inquisition being first made." It is also provided that the Lieutenant-Governor-in-Council may grant any such property or any part thereof or interest therein to any person " for the purpose of transferring or restoring the same to any person having a legal or moral claim upon the person to whom the same had belonged, or of carrying into effect any disposition thereof which such person may have contemplated, or of rewarding any person making discovery of the escheat or forfeiture."

The Evidence Amendment Act, 1942 (c. 15), is in the terms adopted uniformly in the Provinces (see *supra* p. 22).

Mortgages.—C. 27 supplements the amendments of the Mortgages Act and of the Limitations Act noted in the review of legislation for 1939 under the heading Mortgages and Limitations by adding to the Mortgages Act a new section, in effect as follows:

In the case of any building mortgage [that is, a mortgage made for the purpose of financing the construction of a building] made on or after July 1, 1942, wherein it is expressly stated that it is a building mortgage made pursuant to this section, no action may brought by the mortgagee against the mortgagor

for recovery of payment of the whole or any part of the mortgage money after the expiration of one year from the date of the maturity of the mortgage, in the event that the mortgagor shall have made a *bona fide* sale of the property and shall have conveyed and transferred the equity of redemption to a grantee in such circumstances that the grantee is by express covenant or otherwise obligated to indemnify the mortgagor with respect to the mortgage.

Wills of Seamen and Members of the Forces.—C. 40 repeals s. 13 of the Wills Act and substitutes the following:

13.—(1) The will of any member of the forces, or of any mariner or seaman when at sea or in course of a voyage, disposing of real or personal property, or both, may be made by a writing signed by him without any further formality or any requirement as to the presence of or attestation or signature by any witness.

(2) The fact that the member of the forces or the mariner or seaman is under the age of 21 years at the time he makes his will shall not invalidate it.

(3) In this section "member of the forces" shall mean a member of the naval, military or air forces of Canada who, having been placed on active service or called out for training, service or duty, is serving in any of such forces.

8. PRINCE EDWARD ISLAND

[*Contributed by* W. E. Bentley, Esq., K.C.]

Of the Acts passed, 18 were Public, and 3 Private.

Tax.—By c. 1 effect is given to an arrangement made between the Government of Canada and the Government of the Province, by which, for the duration of the war and a certain readjustment period thereafter, the Province and its municipalities forego their rights to impose and collect certain taxes (*supra* p. 22).

Licensing Corporations.—By c. 2, licence fees are imposed upon certain corporations and persons carrying on particular classes of business within the Province. The licence fees range from $25 to $250 per annum according to the kind of business carried on. Returns are required to be filed annually with the Provincial Secretary giving information about the corporation or person paying the licence fee and the nature of the business carried on.

Chancery Court Moneys.—By c. 3, all moneys paid into the Court of Chancery are to be deposited with the Provincial Treasury. These moneys, together with any funds invested by the Court, are to form one consolidated fund, on which interest at three per cent. per annum is to be paid. The Act confirms all payments and distributions previously made by the Court and requires an audit to be made by the Provincial Auditor of all accounts kept by the Court in connection with moneys paid into Court and disbursed and of deposits and securities where funds in Court have been invested.

Affidavits.—By c. 4, affidavits by persons in active service outside Canada for use within the Province may be sworn before an officer of His Majesty's forces holding the rank of major or other rank of the military, naval or air forces of corresponding or senior degree, and may be used without any proof of the officer's signature or rank.

Microphotographic Films.—The Evidence Act is amended, by c. 10, to permit the use in evidence of microphotographic films in certain cases. The amendment is made in accordance with recommendations of the Conference of Commissioners on Uniform Provincial Legislation in Canada, and has been adopted in five Provinces, and with some modifications by the Canadian Parliament in 1942 (Cap. 19).

9. QUEBEC

[*Contributed by* The Hon. Mr. Justice Fabre Surveyer.]

Seventy Public Acts and 50 Private were passed.

Elections.—C. 13, replacing the Election Act (1941 Revised Statutes, c. 5),

enacts in regard to elections for the Legislative Assembly. Among various new provisions, it declares that a woman not separated as to bed and board but living separated from her husband in another place with the intention of so residing, has her domicile in such place for the purposes of the Act; the domicile of a person on active service in the armed forces of Canada is the domicile which he had at the time of his enlistment unless he has subsequently established another domicile in Canada; and if not otherwise specially provided, any judge or magistrate having jurisdiction in the place where an oath is taken, or any notary, may administer any oath.

The Clerk of the Crown in Chancery has the general supervision of the administrative carrying out of the Act, and the Cabinet may appoint an assistant to the Clerk of the Crown in Chancery at Montreal and at Quebec, to supervise the preparation of the electoral lists and establish polling sub-divisions in the territory assigned to them. Sanctions are provided for enumerators, poll-clerks, etc., who violate any provision of the Act, which also repeals the Act 5 Geo. VI, c. 19.

Education.—By c. 20, amending the Education Act (1941 Revised Statutes, c 59), every woman with the necessary property qualifications is granted the right to vote in school matters; heretofore, only widows and spinsters were permitted to vote. In addition, all women are granted eligibility for office as school commissioners and trustees, and in conjunction with the right is the privilege of exemption from compulsory acceptance of these offices, together with the clergy, persons over sixty, etc. The Act which came into force May 13, the day of its sanction, also repeals the Act to Extend the Franchise to Spinsters and Widows (1892 Victoria, c. 35).

Music and Dramatic Art.—C. 22 establishes the "Institute of Music and Dramatic Art of the Province of Quebec" to ensure co-ordination in the teaching of music and dramatic art and to aid in the professional training of composers, singers, instrumentalists and actors. Among other provisions, the Cabinet is authorized to organize branches of the Institute in various parts of the Province, and, upon the recommendation of the committee concerned, affiliate any Superior School of music or dramatic art with the Institute.

Technical Schools.—Under c. 23, in order to encourage the training of expert mechanics, the Cabinet may allow the Polytechnical School of Montreal to borrow a sum not exceeding $100,000 and the Provincial Treasurer is authorized to guarantee the loan; c. 24 enables the Cabinet to authorize the purchase of an immovable for the Furniture-Making School at the sum of $110,000 to be paid out of the consolidated revenue fund, and enables the Provincial Treasurer to provide workshops and laboratories at a cost of $40,000; and, under c. 26, the Provincial Treasurer may pay to *Ecole d'arts et metiers de Rimouski, Inc.* the sum of $100,000 in 20 annual, equal and consecutive instalments to guarantee a loan of the corporation.

Taxes in War-time.—The preamble to c. 27 states that, whereas the British North America Act authorizes the Federal Parliament to impose every kind of taxation and the Provincial Legislature to impose direct taxation, for the purpose of enabling Canada to put forth a maximum effort in the prosecution of this war the Federal Government alone should exercise the power of direct taxation upon incomes and corporations—the Canadian Government being willing, if the Province undertakes not to levy direct taxation during war-time, to compensate the Province which, moreover, does not abandon any constitutional rights or powers.

Accordingly, the Act authorizes the Provincial Treasurer to sign with the Minister of Finance of Canada the agreement as set forth in the Act (*supra* p. 22).

Succession Duties.—C. 29 permits the collector of succession duties and the collector of provincial revenue to give information and furnish documents to any officer charged with collecting succession duties for the Federal or Provincial

Governments, providing the same facilities are granted to officers of this Province.

Waterpowers of the Ottawa River.—The preamble to c. 33 sets out that, since the River Ottawa for the greater part of its course forms the dividing line between the provinces of Quebec and Ontario, both provinces have rights in its various waterpowers and reciprocal concessions would permit each province to develop the sites most advantageous to it.

The Act, therefore, empowers the Cabinet to authorize the Minister of Lands and Forests to lease to the Hydro-Electric Power Commission of Ontario the portion of the waterpowers known as *Cave & Fourneaux, Des Joachims* and *Chenaux* situated in Quebec Province, including the land needed to raise the water to certain designated head-water levels; the lease may only be granted provided that in return Ontario leases to the Quebec Streams Commission for an equal time and on similar conditions the portion of the waterpowers situated in Ontario, known as *Rocher Fondu* and *Carillon,* including land necessary to raise the water level. The Act states various obligatory conditions of the leases, and enumerates eight possible conditions of the lease to the Ontario Hydro-Electric Power Commission, and also provides for an arbitral tribunal to settle disputes and for appeals from decisions of the tribunal. An agreement embodying the leases was entered into on January 2, 1943, between the Province of Quebec, the Province of Ontario, the Hydro-Electric Power Commission of Ontario and the Quebec Streams Commission, and ratified and confirmed on May 20, 1943, by the Ottawa River Waterpowers Act (1943 Geo. VI, c. 20) and on February 19, 1943, by the Ontario Legislature (7 Geo. VI, c. 21).

Colonization.—By c. 37, the colonization Land Sales Act (1941 Revised Statutes, c. 104) is amended in various ways: the Cabinet is enabled to issue letters patent, for public land cleared of timber, one year after the issue of the location ticket; the Cabinet may also exempt settlers from payment of timber dues; and under conditions and at prices fixed by law or by the Cabinet, the agent is obliged to sell colonization land to any *bona fide* settler of 18 years of age.

Agriculture.—C. 39 increases the annual fund which the Cabinet, on recommendation of the Minister of Agriculture is authorized to guarantee or advance to co-operative agriculture associations from $150,000 to $300,000.

Farm Credit.—Under c. 40, amending the Farm Credit Act (1941 Revised Statutes, c. 113), the sum which the Farm Credit Bureau is empowered to borrow, by issue of bonds or otherwise, is increased from $46,000,000 to $48,000,000. The Act came into force on May 29, the day of its sanction.

Motor Vehicles in War-time.—C. 43, among other provisions, enacts that no registration is required for any motor vehicle not used in any way and from which the tyres are removed. In addition, a speed in excess of forty miles an hour is forbidden under any circumstances upon all roads.

Abolishment of Bridge Tolls.—Under c. 44, the travelling public is freed from paying burdensome toll charges on 18 bridges, enumerated in the Act which are declared to be provincial bridges at the charge of the Province. The Act also enables the Corporation of Lake St. Louis Bridge to assign all its movable and immovable property and, in particular, the Honore Mercier Bridge opposite the Caughnawaga reserve to the Province.

Game.—C. 45 decrees, that in certain designated cases, the game-warden may seize the arms of the hunter as well as any canoe, yacht, automobile, etc., used for hunting or transporting game illegally taken, and keep them until the fine is paid; or the judge may declare them confiscated by the Crown. Penalties are provided for clubs serving game of which the sale is prohibited.

Stationary Enginemen.—C. 52 makes provisions for the appointment of a board of examiners under the control of the Minister of Labour to hold examinations and issue certificates to enginemen. Penalties are also provided for any contravention of the Act.

Mining Claims in War-time.—C. 54 exempts every holder of a claim or of a

development licence from the obligation of performing certain designated work until after the expiry of a year from the termination of the present war.

Maritime Fisheries.—C. 55 places the Maritime Fisheries Department under the management of the Minister of Maritime Fisheries who controls and directs all Maritime Fisheries within provincial jurisdiction and is empowered to hold enquiries, etc., in regard to these matters; the Act obliges the Cabinet to appoint a Deputy Minister and delineates his functions: the creation of fishermen's co-operative associations, the supervision of cold-storage plants and of the inspection of Fish, the keeping of statistics, and co-operation with the Federal Department of Fisheries. The Act repeals the Maritime Fisheries Bureau Act (1941 Revised Statutes, c. 200).

War-time Housing.—Notwithstanding any general law or special act to the contrary, c. 56 authorizes municipal and school corporations to enter into agreements with Wartime Housing Limited, a corporation created by the Canadian Government in order to remedy the shortage of dwellings caused by war conditions; resolutions of the councils and school boards for the purpose of making the agreements require the approval of the Cabinet, and the agreements are subject to stated conditions regarding valuation, tax rates and public services; moreover, Wartime Housing Limited bears the cost of installation of street lights, of water and sewer services, of the opening and construction of streets, sidewalks, etc., and binds itself to assign these works gratuitously to the municipality. The above conditions are applicable only as long as Wartime Housing Limited remains owner of the workmen's houses, and cease automatically six months after the date of the publication of a proclamation of the Cabinet that the present state of war has ceased. The Act is retroactive to July 1, 1941.

Bar.—C. 59, amending the Bar Act (1941 Revised Statutes, c. 262), regulates in regard to examination requirements, providing that any bachelor or licentiate in law admitted to serve studentship may appear and plead in the name of his patron only before certain courts or commissions subject to the same professional obligations as an advocate, except that of paying the annual contributions.

War-time Medicine.—The armed forces of Canada being in immediate need of great numbers of physicians, c. 60 facilitates the study of medicine in time of war: the minimum course of lectures in medicine is reduced from five years to four, and the College of Physicians and Surgeons authorized to admit students, who have thus completed their studies, to the practice of medicine during the present war.

Agronomy.—Since there are more than 600 doctors, masters and licentiates of agricultural science who have pursued special studies in agronomy for at least four years and who have rendered signal service to agriculture, "*La corporation des agronomes de la Province de Quebec*" is incorporated by c. 61, which makes provisions for its powers, government, requirements to practice, etc.

Insurance.—C. 64, amending the Husbands' and Parents' Life Insurance Act (1941 Revised Statutes, c. 301), enacts that, notwithstanding articles 1265 and 1301 of the Civil Code forbidding gifts between consorts and forbidding the wife to bind herself with or for her husband, the policy may contain the privilege of obtaining from the insurer, at any time after the issue of the policy, advances, loans or the cash surrender value of the policy; moreover, the insured and the parties benefited, including the wife of the insured may jointly obtain from the insurer advances, loans or the cash surrender value, either under the conditions of the policy or by consent of the insurer.

Moratorium.—The Moratorium Act (1941 Revised Statutes, ch. 336) is amended by c. 66 in various ways: the Act regulates regarding service of the petition, and provides that until September 1, 1942, notice must be given before beginning or continuing an hypothecary action against the hypothecary debtor or other holder; nevertheless, the debtor may obtain a delay up to July 1, 1943, on

petition to a judge, in chambers, of the Superior Court where the immovable is situated under certain conditions.

Interest.—C. 67 repeals the Act to Reduce the Rate of Interest (1936 Edward VIII (2nd session), c. 34), and thus increases the rate of interest in provincial matters from 3 to 5 per centum per annum.

Civil Responsibility.—For the purpose of preventing the author of an offence or quasi-offence from invoking any insurance compensation to diminish his own responsibility, c. 67 decrees that civil responsibility is in no way lessened or altered by the effect of insurance contracts. The Act is not applicable to any case decided in the first instance before the date of its sanction on May 29.

10. SASKATCHEWAN

[*Contributed by* J. P. RUNCIMAN, ESQ., *Legislative Counsel.*]

OF the 81 Acts passed, 75 were Public and 6 Private.

Taxation.—No. 2 authorizes the Government of Saskatchewan to enter into an agreement with the Government of Canada for the repeal or suspension by the Province of all enactments pursuant to which income taxes and corporation taxes are levied by the Province (*supra* p. 22).

Active Service Voters.—No. 5 provides for taking the votes of members of the forces in elections of members of the Legislative Assembly and authorizes the Lieutenant-Governor-in-Council to make regulations to facilitate the exercise of the franchise by active service voters.

Highways and Transportation.—An amendment to The Highways and Transportation Act by No. 7 authorizes police officers and constables and certain traffic officers to weigh any vehicle and its load by means of portable or stationary scales and to require the person in charge of the vehicle to take it and its load to the nearest scales, if not more than ten miles distant, and to unload immediately such portion of the load as may be necessary to decrease the gross weight of the vehicle and load to the authorized maximum gross weight.

Succession Duty.—A new section inserted by No. 9 in The Succession Duty Act provides that securities deposited for safe keeping with a bank or trust company and removed by it, on the written request of the owner of the securities or his agent, from one of its offices outside Saskatchewan to one of its offices in Saskatchewan, or to one of the offices of another bank or trust company in Saskatchewan, solely to safeguard the securities from destruction by acts of the King's enemies, shall not, by reason only of their removal and presence in Saskatchewan, be or be deemed to be property situate within Saskatchewan or subject to duty in Saskatchewan, if the said written request and a list of the securities are filed with the Provincial Tax Commission together with a certificate of the bank or trust company in Saskatchewan that the securities are brought into the Province solely for the said purpose.

Evidence.—The Saskatchewan Evidence Act was amended by No. 13 by the insertion of a new section governing proof of death of members of His Majesty's forces. The production of a certificate, signed by a person authorized by the Act to sign it, stating that the person named in the certificate was a member of any of His Majesty's forces and that he has been officially reported as dead or presumed to be dead, is sufficient proof of death and of all the facts stated in the certificate.

Commissioners for Oaths.—The Commissioners for Oaths Act was revised and consolidated in No. 14. Under the repealed Act appointments continued until revoked. Under the new Act existing commissions continue in force until the end of 1943, unless sooner revoked, and every appointment made under that Act expires at the expiration of five years from December 31 of the year in which the relative order in council is made, but appointments may be renewed from time to time for a period of five years.

Survivorship in Common Disasters.—No. 23 is the uniform Act, known as The Commorientes Act, adopted by the Conference of Commissioners on Uniformity of Legislation in Canada. The Act embodies the same principle as that of s. 184 of The Law of Property Act, 1925 (Imp.). This uniform Act has been passed in most of the Provinces.

Companies.—Amendments to The Companies Act by No. 24 enable insurance companies to become incorporated by memorandum of association under that Act, subject to the written approval of the Superintendent of Insurance. Hitherto insurance companies could be incorporated only by special Act of the Legislature.

Insurance.—The automobile insurance statutory conditions were amended by No. 26 by the addition of a "war clause" as follows:

"In cases other than motor vehicles liability policies the insurer shall not be liable for loss or damage that is caused, directly or indirectly, by bombardment, invasion, civil war, insurrection, rebellion, revolution, military or usurped power, or by operations of armed forces while engaged in hostilities (whether war be declared or not), or by civil commotion arising from any of the foregoing, unless the policy or an endorsement thereon expressly provides otherwise."

This amendment does not affect existing policies.

Another amendment provides machinery for the organization and licensing of co-operative insurance companies. A co-operative insurance company is prohibited from carrying on any business other than the business of insurance.

Auctioneers.—The Auctioneers Act was amended by No. 57 by the addition of the following provision:

"Where a gift, conveyance, assignment or transfer of real or personal property made by any person to an auctioneer has the effect of defeating, hindering, delaying or prejudicing the creditors of such person or any of them, such gift, conveyance, assignment or transfer and every gift, conveyance, assignment, transfer and incumbrance of the property by the auctioneer shall be utterly invalid and void as between the auctioneer and the creditors of such person and the auctioneer shall be personally liable to the said creditors to the extent to which they have been defeated, hindered, delayed or prejudiced as an effect of any such transaction, unless in any action, issue or proceeding wherein any such transaction is attacked the *bona fides* and validity of the transaction are established by the party or parties seeking to uphold it."

Elevators and other Hoisting Appliances.—No. 62 takes the place of regulations which have been in force for some considerable time under The Factories Act. "Elevator" means a hoisting and lowering mechanism installed in or about a building and equipped with a car or platform which moves in guides in a substantially vertical direction, but does not include an appliance operated solely by manual power or gravity or manual power and gravity."

Operation of an elevator is prohibited unless the owner holds a licence therefor. A licence expires at the end of the calendar year for which it is issued.

The operation of an elevator by a person under the age of 18 years is prohibited.

An inspector may prohibit the use or operation of any elevator which he finds to be in a dangerous condition.

The Act provides for wide powers of control by means of regulations.

Security Frauds Prevention.—Two restrictive provisions were added by No. 66 to The Security Frauds Prevention Act, as follows:

"No person shall call at any residence and: (*a*) trade there in any security; or (*b*) offer to trade there or at any other place in any security; with the public or any member of the public.

"No broker or salesman shall make any representation, written or oral, that he or any other person or any company will: (*a*) resell or repurchase; or (*b*) list, or make application to list, upon any stock exchange; or (*c*) refund all or any of

the purchase price of any security offered for sale by the broker or salesman, or give any guarantee relating thereto."

In the first provision "public" does not include close personal friends, business associates or regular customers, and this provision does not apply to the sale of certain Government, municipal and other bonds.

Woodmen's Lien for Wages.—No. 68 is a revision and consolidation of The Woodmen's Lien Act. There is no change in the requirements as to filing of claims of lien for wages, but the lien now affects not only the logs or timber in connection with which the labour is performed but also all lumber manufactured therefrom.

The new Act provides a simpler procedure for enforcement of the lien. Under the old Act a writ of attachment could only be issued after commencement of an action for enforcement of the lien, but now a writ of attachment must be issued by the clerk of the proper district court upon the filing of certain documents in his office. A copy of the writ is served on all interested parties, who may file a notice of dispute or enter a statement of defence. Whether or not a notice of dispute has been filed or a statement of defence entered, the district court judge holds a hearing, which may be in chambers, settles the rights of all interested parties, orders payment into court of any amount found to be due and, in default of such payment, sale of the logs, timber or lumber seized under the writ of attachment, payment into court of the proceeds of sale and payment out by the clerk of court upon application by the persons who have been found to be entitled thereto.

Workmen's Compensation.—The Workmen's Compensation (Accident Fund) Act was amended by No. 69 in several respects. The list of occupational or industrial diseases in respect of which compensation may be paid was considerably extended, and frostbite was brought within the scope of the Act. A claim for compensation may now be rejected by the Workmen's Compensation Board if the dependants of a deceased workman refuse to sanction any autopsy that is deemed necessary to determine the cause of death. In cases in which the sheriff certifies that he has been unable to satisfy a writ of execution against an employer issued upon a judgment in an action for unpaid assessments, the board may obtain an injunction preventing the employer from carrying on any industry within the scope of the Act. Another amendment provides that, where a business or industry covered by the Act changes hands, or the stock, or equipment, is sold in bulk, the purchaser must secure from the vendor and the vendor must furnish the purchaser with proof that the Workmen's Compensation Board has no claim in respect of the business, stock or equipment, and failure of the purchaser to secure such proof renders him liable to the Board for a sum equal to the moneys due it by the vendor.

Volunteers and Reservists.—No. 73 is a consolidation and revision of the enactments providing for the protection of the property and interests of members of His Majesty's Forces, passed at the 1940 and 1941 sessions of the Legislature. The provisions respecting exemption from taxation were rewritten, chiefly for the purpose of clarification.

11. NEWFOUNDLAND

[*Contributed by* H. G. PADDESTER, ESQ.]

DURING the calendar year forty-six Acts were passed. Many of these make only minor amendments or involve administrative matters of merely local interest, and only those hereinafter referred to seem likely to be of any general interest.

Industrial Development.—No. 1 establishes the Newfoundland Industrial Development Board, which has for its main objects the providing of a bureau of information on industrial, commercial and economic affairs, the creation of new and the expansion of existing industries in Newfoundland and assistance in

providing contact between local enterprises and research institutions with a view to encouraging industrial and commercial research. The Board is prohibited from engaging in trade or carrying on any enterprise for profit. The Commissioner for Natural Resources is an *ex-officio* member of the Board and the channel of communication between the Board and the Commission of Government.

Income Tax.—No. 2 provides for the deduction of income tax paid elsewhere in the British Empire or in a foreign country. A tax of 15 per cent. is imposed on non-residents in respect of dividends and interest from Newfoundland debtors and the income from Newfoundland estates and trusts.

War Loan.—No. 5 authorizes the Governor in Commission to transfer from time to time to His Majesty's Government in the United Kingdom, either as free grants to be used in whole or in part for war purposes or as interest free loans, the whole or any part of funds which are surplus to immediate requirements.

Customs and Excise.—No. 6 prohibits the transfer, etc., of goods imported or received free of duty, or at reduced duty, under special statutory provision and under the Revenue Acts. Exemptions may be granted by the Board of Customs, subject to such conditions as it may prescribe.

Banks.—No. 8 permits the assignment of shares in the capital stock of any chartered or incorporated bank in Newfoundland, subject and according to such regulations as may be established in that behalf by the bye-laws of the bank. No assignment, however, shall be valid until entered and registered by the bank in a book kept for that purpose.

Salt Fish.—No. 10 provides that any quantity of salt fish of certain kinds exceeding two quintals shall not be exported from Newfoundland unless a permit has been obtained from the Newfoundland Fisheries Board. Such a permit is additional to any other licences otherwise required by law.

No. 26 provides for an export levy upon salt fish produced during 1942 and for the disposal of the amount collected for the purpose of fixing minimum prices for salt fish produced from fish caught in the calendar year 1942. A marketing fund is established into which shall be paid by the Government amounts equivalent to the sums paid under the levy.

War Injuries.—No. 12 authorizes the making of a scheme providing for payments in respect of war service injuries sustained during the period of the present emergency by Civil Defence and Home Guard volunteers.

Savings Certificates.—No. 14 provides that the redemption value of War Savings Certificates or Savings Certificates shall be chargeable upon and payable out of the Consolidated Revenue Fund. Provision is also made for a redemption fund under the control of the Commissioner for Finance.

Air Base.—No. 19 authorizes the issue to the United States of America of a supplementary lease covering certain parcels of land in Newfoundland.

Shop Hours.—No. 22 is designed to regulate the closing hours for and working hours and conditions in shops in Newfoundland. Provision is made for the sale of goods outside the permitted hours in cases of illness and for the supplying of necessaries to ships in certain cases. Shops whose principal business consists in the sale of certain goods, for example, rapidly perishable foods, medical and surgical supplies, tobacco and smokers' requisites, confectionery, etc., are exempt from certain sections of the Act.

Crown Lands.—No. 23 sets out the terms of the final licence in respect of water power leased by the Government. The Government in Commission may grant easements for transmission lines and to flood lands.

Education.—No. 32 is designed to compel the attendance at school of children who have reached the age of seven years, but have not attained the age of fourteen years. The duty to see that such children attend school is placed upon the persons having the care of such children, which includes both parents and persons having legal custody of such children. The employment of

children to whom the Act applies is forbidden. Exemptions are permitted in cases of lack of accommodation in the school, illness, difficulties of travel, etc. No fees are charged in respect of such children.

Export Duty.—No. 33 provides for payment of a levy upon export of sealskins and certain salted or pickled fish. The amount collected is to be used for the assistance of the fishing industry generally.

Seeds.—No. 42 authorizes the Governor in Commission, by regulation, to prohibit the importation into Newfoundland of certain seeds, except under licence, and prohibits the sale of seeds if below the minimum standards prescribed by regulation. Seeds may not be imported or sold unless the containers are marked with certain particulars about the seeds contained.

Public Health.—No. 44 gives power to regulate the importation of animals and birds with a view to the prevention of the introduction or spread of contagious or infectious diseases.

Excess Profits. –No. 46 defines share capital and provides in the calculation of standard profits for an addition to or deduction from the profits of an amount not exceeding seven and one-half per cent. of the amount of the increase or decrease in the capital of a corporation where such has occurred since the commencement of its fiscal period beginning in 1940. In the case of an increase such an adjustment may be made only if the increase was represented by shares of capital stock issued for cash. In the case of a corporation incorporated since 1940 standard profits may be allowed in an amount not exceeding seven and one-half per cent. of the amount of paid-up share capital.

12. BERMUDA

FIFTY-NINE Ordinances were passed in the year and included several containing minor amendments.

Essential Commodities.—A special Fund is created by No. 6 which was amended by No. 37 and No. 47 to enable the Governor to purchase and sell essential commodities for the purpose of creating, maintaining or distributing adequate supplies to meet the needs of the community. No. 14 deals with the replacement, out of the proceeds of sales from time to time as circumstances require, of reserve stocks of food. A loan is raised for the purpose by No. 26.

Air Bases.—No. 7 enables the United States authorities to acquire lands and rights over other lands in connection with the establishment of Air Bases. Nos. 13, 25 and 42 are other ordinances on the same subject. No. 11 provides for the rehabilitation by means of a deferred purchase scheme of leaseholders or tenants of land on St. David's Island required for the United States Bases. No. 12 preserves the right to vote at parliamentary elections of such dispossessed persons. By No. 32 provision is made for private leases or letting agreements entered into by the United States. A lease by the Corporation of St. George's parish was dealt with specially by No. 40.

Motor Cars.—Special provision is made by No. 18 for the use of motor cars on the island by medical practitioners.

Dogs.—The Dogs Act, 1925, is amended by No. 19 so as to make better provision for their control.

War Loan.—By No. 49, £600,000 is raised by loan to be lent free of interest to the United Kingdom.

Meteorological Station.—The control of the Meteorological Station is transferred by No. 50 to the Secretary of State for Air for the duration of the War.

III. AUSTRALIA

1. COMMONWEALTH OF AUSTRALIA

[*Contributed by* Sir George Knowles, C.B.E., M.A., LL.M., *Solicitor-General and Parliamentary Draftsman.*]

Fifty-eight Acts were passed during 1942. The Commonwealth has again entered the field of taxation in respect of taxes on admission to entertainments. Provision is made for the grant by the Commonwealth of pensions to widows and economic conditions in the dairying industry will be affected by a subsidy provided by the Commonwealth. The regulation of the wages and conditions of women employed in industry during the war is governed by the Women's Employment Act. Of interest to students of constitutional law is the Statute of Westminster Adoption Act.

Assistance to States.—The States Grants Act (No. 46) grants for the financial year 1942–43 the sum of £800,000 each to South Australia and Western Australia and £575,000 to Tasmania. The States Grants (Entertainments Tax Reimbursement) Act (No. 43) compensates the States which vacated the field of entertainments tax for the loss of revenue thereby incurred. The States Grants (Income Tax Reimbursement) Act (No. 20) compensates the States which vacate the field of income tax under the "uniform" tax scheme, to the following extent in respect of each financial year: New South Wales, £15,356,000; Victoria, £6,517,000; Queensland, £5,821,000; South Australia, £2,361,000; Western Australia, £2,523,000; Tasmania, £811,000. These amounts will be reduced by the amount of any arrears of State taxation collected during the year in respect of which the grant is made.

Broadcasting.—The Australian Broadcasting Act (No. 33) repeals the Australian Broadcasting Commission Act, 1932–1940, and re-establishes an Australian Broadcasting Commission of five Commissioners but provides that at least one shall be a woman. So far as concerns the National Broadcasting Service the new Act closely follows the provisions of the repealed Act, but there are new provisions relating to the Commercial Broadcasting Service, to the establishment of a Parliamentary Standing Committee, and in relation to broadcasting matters generally. With respect to commercial broadcasting stations, it is provided that licences having a duration of three years may be granted, on payment of a prescribed fee. A licence is not transferable without the consent of the Postmaster-General, and it is not permissible for any person to control either directly or indirectly more than one metropolitan commercial broadcasting station in any State; four metropolitan commercial broadcasting stations in Australia; four commercial broadcasting stations in any one State; or eight commercial broadcasting stations in Australia. The technical installations, power, frequency, location and programmes of commercial broadcasting stations are to be such as the Minister approves. The stations are to keep proper accounts and make them available for inspection. A licensee of a commercial broadcasting station may broadcast advertisements, the charges for which are to be published and the advertising service is to be available without discrimination to any person. Sunday broadcasts of advertisements are subject to conditions determined by the Minister. Advertisements regarding medicines and talks on medical subjects must be approved by the Director-General of Health. All matter for broadcast by a commercial station is subject to censorship. The broadcasting of copyright works is restricted except with the consent of the owner of the copyright. The Commission is empowered to determine the extent and manner in which political speeches and matters may be broadcast. The true name is to be announced of every speaker who is to deliver an address or make a statement on a political subject or on current affairs. If the address or statement is on behalf of a political party, the name of the party is to be

included in the announcement. The broadcasting of blasphemous, indecent or obscene matter is prohibited. Unauthorized broadcasting in code is prohibited. The issue of broadcast listeners' licences is also regulated by the Act. A person is required to hold a licence in respect of each receiving set in his possession. Special provisions are made with regard to receiving equipment in hotels and boarding houses. The Act establishes a Parliamentary Standing Committee on Broadcasting which is to be a Joint Committee consisting of nine members. Its functions are to report to the Parliament upon all matters affecting broadcasting in Australia. The Commission is required to encourage local talent. The Commercial Broadcasting Stations Licence Fees Act (No. 34) prescribes a licence fee of £25 per annum during the first period for which a licence is granted and thereafter a fee of £25 per annum if the station does not derive a profit from its operation and £25 plus ½ per cent. of the year's gross earnings where a profit is made in any year.

Child Endowment.—The Child Endowment Act (No. 5) extends the benefit of child endowment to inmates of State institutions and children maintained from moneys forming part of the estate of a deceased person and makes other amendments to assist in the administration of the scheme.

Constitutional Law.—The Statute of Westminster Adoption Act (No. 56) adopts sections 2, 3, 4, 5 and 6 of the Statute of Westminster. The title of the Act declares that it is " an Act to remove Doubts as to the validity of certain Commonwealth Legislation, to obviate Delays occurring in its Passage, and to effect certain related purposes, by adopting certain Sections of the Statute of Westminster, 1931, as from the Commencement of the War between His Majesty the King and Germany."

Criminal Law.—The Black Marketing Act (No. 49) declares black marketing an offence punishable summarily or on indictment. If the offence is prosecuted summarily, the penalty is imprisonment for not less than three months and not more than twelve months, or, in the case of a body corporate, a fine of not less than £1,000 and not more than £5,000. In the case of a conviction on indictment, the penalty is imprisonment for any term not less than twelve months or in the case of a corporation a fine of not less than £10,000. The term " black marketing " is exhaustively defined, but may be described in general terms as selling, supplying, purchasing or accepting goods or services at a price, or contrary to a prohibition, prescribed under the National Security Act, 1939–1943.

Customs.—By the following Acts, customs duties included in certain tariff proposals are validated until March 5, 1943, namely: the Customs Tariff (Canadian Preference) Validation Act (No. 40); the Customs Tariff (Exchange Adjustment) Validation Act (No. 37); the Customs Tariff (New Zealand Preference) Validation Act (No. 39); the Customs Tariff (Special War Duty) Validation Act (No. 38); and the Customs Tariff Validation Act (No. 36).

Defence.—The War Service Estates Act (No. 57) repeals the Deceased Soldiers Estates Act, 1918–1919, and re-enacts similar provisions for the distribution of the war service estate of deceased members of the naval, military and air forces of the Commonwealth and auxiliary women's services.

Excise.—The Excise Act (No. 16) extends the meaning of the expression " excisable goods " to include goods which are the subject of excise tariff proposals. A period of two months is allowed to manufacturers or proposed manufacturers of goods previously free of excise duty to comply with the provisions of the Excise Act as to registration and licences.

Judiciary.—The Judiciary (Diplomatic Representation) Act (No. 2) safeguards the position of the Honourable Sir Owen Dixon as a Justice of the High Court during the term of his appointment as His Majesty's Envoy Extraordinary and Minister Plenipotentiary for the Commonwealth in the United States of America.

Maternity Allowance.—The Maternity Allowance Act (No. 4) extends the

grant of maternity allowances to aboriginal natives who are exempt from control under the law of a State or Territory of the Commonwealth or whose character, standard of intelligence and development render it desirable that such grants be made. Payment of the allowance may be directed to be made to authorities controlling the affairs of aboriginal natives.

Navigation.—The Lighthouses Act (No. 35) authorizes the making of regulations for the refund or remission of light dues and for the exemption of ships from payment of light dues. It also authorizes the entry on property for the purpose of inspecting any marine light.

Pensions.—The Invalid and Old-Age Pensions Act (No. 3) increases the rate of pension to £1 5s. per week. It renders eligible for pension certain aboriginal natives living under civilized conditions and "kanakas." The permissible income where both husband and wife are blind persons is fixed at the amount of the current Federal basic wage instead of the amount of £3 7s. 6d. per week. Pensions are no longer to be suspended where a pensioner becomes a hospital inmate. The Widow's Pensions Act (No. 19) provides for payment of widows' pensions. The maximum amounts which may be paid are as follows:—

(*a*) Widows of any age maintaining at least one child under 16 years of age—£78 per annum.

(*b*) Widows over fifty years of age without dependent children—£65 per annum.

Pension will not be payable to a widow who is not a resident of five years standing or who, if in class (*a*), owns property worth more than £1,000, or, if in class (*b*), owns property worth more than £400. In each case, the value of the house owned by the widow in which she resides is excluded. Certain widows under fifty years of age without dependent children who are left in necessitous circumstances may be paid an allowance of 25s. per week for a period of six months after they become widows. Provision is made for the variation of pensions and allowances in accordance with price index numbers. A person is not entitled to receive at the same time a pension or allowance under the Act and a pension under the Invalid and Old-age Pensions Act. A pension or allowance is automatically suspended while a recipient is in a hospital for the insane.

Primary Producers Assistance.—The Dairy Produce Export Control Act (No. 24) empowers the Australian Dairy Produce Board to make recommendations concerning the standards and grading and the export and sale abroad of Australian dairy produce and, with the approval of the Minister, to take action for the improvement of its quality and for expanding existing markets or securing new or additional markets for dairy produce. The Dairying Industry Assistance Act (No. 58) provides for the grant, by way of financial assistance to the dairying industry in respect of the financial year ending on June 30, 1943, of the sum of £1,500,000. The object of the grant is to promote the production of dairy produce required for the effectual prosecution of the war, and the grant is to be applied in accordance with the Regulations in making payments to primary producers. A "primary producer" is defined to mean a person who produces dairy produce, and, where dairy produce is produced in pursuance of a share-farming agreement, includes every party to the agreement. The Tariff Board is empowered to make inquiries with a view to determining the manner in which the grant should be allocated. With the object of ensuring an adequate supply of dairy produce during the war, the Minister for Commerce or the Attorney-General may request the Commonwealth Court of Conciliation and Arbitration to determine the terms and conditions of employment to be observed in the dairying industry. The Rabbit Skins Export Charges Act (No. 25) increases the maximum rate of levy which may be imposed on rabbit skins from 9d. per lb. to 2s. 6d. per lb.

Public Service.—The Superannuation Act (No. 43) extends superannuation

rights to long term temporary employees, employees of semi-governmental bodies and persons appointed for a term of years to statutory offices. The minimum contribution for persons under thirty years of age is raised from two units to four units. Provision is made to enable a person to change from a pension on retirement at sixty-five years of age to a pension on retirement at sixty years. New provisions are made in relation to pensioners who are re-employed by the Commonwealth. In addition there are a number of minor amendments to remove anomalies.

Taxation.—The Entertainments Tax Act (No. 42) imposes entertainments tax at rates varying from 2d. where the price of admission is 1s. to 2s. 1d. where the price of admission does not exceed 6s., and on a scale which increases by 2½d. or 3d. for every 6d. increase in the price of admission above 6s. The rate is lower where the performers whose words or actions constitute the entertainment are actually present and performing and the entertainment consists of such items as stage plays, ballets, the performance of music, etc. The Entertainments Tax Assessment Act (No. 41) provides the necessary machinery for the collection of entertainments tax. The tax is levied and paid on all payments for admission to any entertainment. Admission is to be by stamped tickets or through barriers with automatic registers. Special provision is made for the computation of the price paid for admission to an entertainment with which meals are provided. Certain entertainments are exempt from tax. These entertainments include those conducted for patriotic, philanthropic, religious, charitable or educational purposes. The Estate Duty Assessment Act (No. 18) provides for deduction of £5,000 in respect of estates of members of the Forces killed on active service. Gifts *inter vivos* made within three years of the death of the donor and moneys accruing from life insurance policies the premiums of which were paid by the deceased are to be included in computing the amount of the estate of a deceased person. Among a number of machinery amendments is one giving the Commissioner of Taxation power to value shares held by the deceased persons in certain companies for the purpose of assessing the value for duty of an estate. The Gift Duty Assessment Act (No. 17) gives power to the Commissioner of Taxation to value shares in private companies for the purposes of the Act and makes drafting amendments to the exemption provisions relating to gifts made before the commencement of the Act. The Income Tax Act (No. 23) fixes the rates of income tax for the financial year beginning on July 1, 1942. This Act is the first to impose income tax under the system of " uniform " taxation. Substantially, the rates are equivalent to the combined Commonwealth and State income tax rates. The scale for income from personal exertion commences at 8d. in the (£) pound, and rises to 18s. in the (£) pound on income in excess of £4,000 per annum. The rates on income from property are 25 per cent. greater than the personal exertion rate on incomes up to £2,100, and rise to 18s. in the (£) pound on income in excess of that amount. The rate of tax payable by companies is increased from 4s. to 6s. in the (£) pound, except in the case of mutual life insurance companies, where the rate is fixed at 5s. in the (£) pound. The Income Tax Act No. 2 (No. 51) provides for the rate of tax of 5s. in the (£) pound to be applicable to " mutual income " in the case of life insurance companies whose business is partly mutual. The Income Assessment Act (No. 22) makes amendments in the Income Tax Assessment Act, 1936–1941, arising out of the uniform taxation scheme. The former statutory exemption on a sliding scale, under which the minimum taxable income was £201, is replaced by a provision exempting taxable incomes not exceeding £156. Concessions in respect of dependants, life assurance and superannuation, medical and funeral expenses, gifts, calls and rates and taxes now take the form of a rebate of tax calculated at personal exertion rates instead of being a deduction from assessable income. Provision is made in respect of mutual life assurance companies so that the amounts of taxation payable will approximate the sum

of State and Commonwealth taxes previously paid. A special rebate is also allowed in respect of government securities issued free of State taxation. The Income Tax Assessment Act No. 2 (No. 50) amends the Income Tax Assessment Act, 1936–1942. The amendments include the following: Exemption of 20 per cent. of profits derived by a company from mining operations producing base metals and rare minerals required for war purposes; provision for the allowance, after the war, of additional depreciation in the case of plant, machinery and buildings used for war purposes where it is established that the depreciation allowed under the Act was inadequate; deductions are granted in respect of expenditure on enemy raids precautions in connexion with the business of the taxpayer and in respect of contributions to funds to assist persons who are engaged in war service; a deduction on a sliding scale is allowed in respect of the pay and allowances of members of the Forces; public companies are given a right of election similar to that allowed to private companies to deduct, in arriving at undistributed income, income tax payable in respect of the income of the year of income instead of the tax paid during that year; similar provision is made in respect of war-time company tax; further provisions have the effect of avoiding a double deduction by companies in respect of State income tax; the amount to be included by overseas film companies in their income is reduced from 30 per cent. to 10 per cent. of their income derived in Australia, but the right to a reduction of the percentage is taken away; the method of ascertaining the "mutual income" of life assurance societies is varied. The Income Tax (War-time Arrangements) Act (No. 21) provides machinery for the temporary transfer to the Commonwealth of the taxation staff, accommodation and equipment of the States. Provision is made for transferred State officers to preserve their existing and accruing rights and for the payment of compensation to the States in respect of furniture and premises taken possession of by the Commonwealth. The Pay-roll Tax Assessment Act (No. 48) simplifies and improves the administrative machinery of the Act relating to exemptions and deductions and the furnishing of returns. Provision is made in regard to the ascertaining of the tax payable by employees. Members of the Forces and of Women's Services are exempted from the payment of the tax. The Sales Tax Acts Nos. 1–9 (Nos. 7–15) increase the rate of sales tax on goods in the general field from 10 per cent. to 12 per cent. and upon the less essential goods from 20 per cent. to 25 per cent. The Sales Tax Assessment Act No. 1 (No. 54) amends the definition of "manufacture" so as clearly to include concrete and goods of a similar kind in the field of tax. The Sales Tax (Exemptions and Classifications) Act (No. 6) repeals the Second Schedule to the Act and so exempts from tax goods which were previously taxed at 5 per cent. Several items are added to the First Schedule. These include fishing and pearling machinery and equipment; drugs and medicines; rectified spirits; surgical X-ray apparatus; goods for universities and schools; and clothing, etc., for Allied Forces. The War-time (Company) Tax Assessment Act (No. 52) makes provision for the calculation of income tax deductions in such a manner as to prevent what would be in effect a double deduction on account of State income tax by reason of the uniform income tax now in force. Provision is made for the deduction to be allowed in ascertaining the capital employed by life assurance companies which have any "mutual income." A limitation of sixty days after service of notice of assessment is placed on the right to claim the allowance of a statutory percentage greater than that prescribed. Companies liable to pay tax are permitted to deduct certain amounts from dividends payable to preference shareholders. The provision for the expiration of the Act is amended to enable outstanding tax to be collected.

Women's Employment.—The Women's Employment Act (No. 55) continues in operation the provisions of the National Security (Women's Employment) Regulations which set up special machinery to encourage and regulate the

employment of certain women in industry during the present war-time emergency. A Women's Employment Board is authorized to fix the remuneration, hours and conditions of employment. Application is to be made to the Board to employ females on work usually performed by males.

2. NEW SOUTH WALES

[Arrangements have been made by which it is hoped to print the reviews of the years 1941 and 1942 in the next issue.]

3. QUEENSLAND

[*Contributed by* J. E. BROADBENT, ESQ., *Parliamentary Counsel.*]

THIRTY-NINE Public General and three Local and Personal Acts received the Royal Assent between December 12, 1941, and November 19, 1942.

Finance.—There are two main objects of the Financial Arrangements and Development Aid Act, (No. 26), namely :—

(i) It implements the Commonwealth Uniform Taxation Scheme, and (ii) it makes other provision in regard to development, in that the Corporation of the Treasurer will be the Corporation in that regard in lieu of the Corporation of the Department of Labour and Industry, and such new Corporation shall have powers similar to that obtaining in s. 69 of the Income (State Development) Tax Act which section will be repealed.

The Preamble of the measure sets out that the Government of the Commonwealth in pursuance of its financial policy to meet the exigencies of the present war formulated a Uniform Taxation Scheme. Four measures were passed by the Commonwealth Parliament pursuant to such scheme (see *supra* p. 42).

The Preamble also sets out that whereas pursuant to such last-mentioned Act of the Commonwealth it is necessary, in order that the State of Queensland can obtain such amounts payable to it by way of financial assistance, to suspend the imposition of Income Tax and Income (State Development) Tax for the period set out above.

The Act therefore suspends s. 7 of the Income Tax Acts (which section imposes and levies Income Tax) for a period from and including July 1, 1942, to and including the last day of the first financial year to commence after the date on which His Majesty ceases to be engaged in the present War. Similarly s. 9 of the Income (State Development) Tax Acts and allied sections which impose and levy Income (State Development) Tax are suspended for the same period.

Provision is also made for the State to make arrangements with the Commonwealth for the collection of arrears of Income Tax and Income (State Development) Tax. Due provision is also made as to the appointment of and/or utilization of State officers for the purpose.

Reference to Income Tax on certain lottery tickets is removed from the Income Tax Acts, and new (identical) provisions are inserted in the Stamp Acts providing that there shall be charged, levied, collected and paid stamp duty for and in respect of every ticket issued in a drawing, sweep or lottery for a prize paid by means of cash, bonds, inscribed stock or other negotiable instrument of an amount equal to 5 per centum of the selling price of the ticket, with a minimum of 3d. thereon.

Part III deals with Aid to Development. This part of the Act is identical in principle with s. 69 of The Income (State Development) Tax Acts, which section is repealed. The Corporation of The Treasurer of Queensland will now have the powers and authorities of the Corporation of the Secretary for Labour and Industry. It is provided that for the purpose of creating employment and/or of aiding the development of the State on a system of planned works

requirements, there may be made from time to time out of the Consolidated Revenue sums by way of Grant and/or Loan to the various Crown Instrumentalities and local bodies, and loans to companies or corporations.

In respect of applicants for grants and/or loans, these are forwarded to the Treasurer in the first instance, who then refers same to the Co-ordinator-General of Public Works for a report and recommendation.

Final approval in respect of any such application rests with the Governor-in-Council. Moreover, it is also declared that the Consolidated Revenue may be utilized in the direction of alleviating unemployment, creating employment, and developing the State in any manner which the Governor-in-Council by Order-in-Council may from time to time direct and determine. Usual machinery and regulation-making powers are prescribed.

Stock Returns (No. 29) amends the existing law in the first place by making a change in regard to areas. In the existing law, the necessary stock statistics are based on Clerk of Petty Sessions Districts. This measure will base them on local authority areas. This arrangement is more convenient to the Government Statistician in the compilation of statistics generally. The Act also provides for the cessation of the printing of stock lists and allows the Government Statistician to send out properly certified lists of statistics to the Department or authority requiring them. This provision is in the nature of a war requirement.

Patriotic Funds.—The Principal Act was passed in 1916 during the last War and further amended in 1939 shortly after the outbreak of the present War.

The law is now known as The Patriotic Funds Administration Acts, 1916 to 1939.

The purpose of the Amending Act (No. 38) is to consolidate and amend the law relating to Patriotic Funds and their administration, as the result of Departmental experience of the administration of the law in recent years.

Opportunity is also taken to consolidate the existing law and practices and to clarify the law in certain directions, whilst retaining the broad principles of control as originally enacted.

The principal amendments can be summarized as under:—

(1) *As to Definition of Patriotic Fund:* A new definition of "Patriotic Fund" is made embracing all the features of the description of a Patriotic Fund as amended in the 1939 Act, but covering also as a Fund all moneys and securities for money and all property, real or personal, raised with the object or for the purpose of directly or indirectly establishing, fostering, maintaining or affording aid, assistance, relief or support to any person possessing, managing, or controlling a Patriotic Fund within the meaning of this definition. The object of this extension is to control association bodies or organizations which might be formed, having as one of their objects a patriotic objective.

(2) *As to prohibiting certain words as part of the name of a Body or Association:* This measure prohibits any body or association of persons, whether corporate or incorporate, unless such body or association is registered as a Patriotic Fund, adopting or using in its name such words as "aid," "assistance," "relief," "benefit," "help," "patriotic," "welfare," in combination with other words to give the impression that such a body is actively engaged in activities within the meaning of the Patriotic Funds Act.

(3) *As to appointment of Trustees:* It is definitely laid down in the Act that there shall not be less than three Trustees of every approved Patriotic Fund. The power of the Governor-in-Council to appoint such number of Trustees not exceeding one-third of the total number to represent the Crown is retained.

(4) *As to the Control of Collections:* The existing law makes it unlawful for any person to solicit or accept from any other person any moneys or gift in kind for a Patriotic Fund unless such a person is authorized to collect by the Chief Secretary. The Amending Act is designed to control more rigidly unauthorized

collections and provides also for a permit granted by the Chief Secretary to be revoked at any time. Provision is also made for collectors' permits, approved by the Chief Secretary, to be in general or limited terms, and may be so limited in respect of time, place or otherwise.

(5) *As to Corporation of the Chief Secretary :* The corporation of the Chief Secretary is constituted under the Act. This is deemed necessary to facilitate the transfer of the assets of any Patriotic Fund. The existing law, under the 1939 amendment, made provision for the Governor-in-Council, with the consent of the Trustees of a Patriotic Fund, or on being satisfied that maladministration of a Patriotic Fund had occurred, to divest the Trustees of the Fund concerned from the assets in the Fund and vest the same in the Chief Secretary representing the Government of Queensland. The constitution of " The Corporation of the Chief Secretary " will facilitate administration should such contingency arise.

(6) *As to the Vesting of Patriotic Funds in the Corporation of the Chief Secretary in certain cases :* The Act provides that by Order-in-Council the assets of a Patriotic Fund may be vested in the Corporation of the Chief Secretary on the following conditions:—(i) That the Trustees of the Fund have consented thereto; or (ii) That there has been maladministration or a failure of administration of such Fund; or (iii) That the Trustees of a Fund have contravened or failed to comply with the provisions of the Act, or any direction, instruction or condition made, given, or imposed by the Governor-in-Council pursuant to the Act.

(7) *As to Amalgamation of Patriotic Funds :* Provision is also made for the Governor-in-Council, on the recommendation of the Chief Secretary, to direct that any two or more Patriotic Funds which he considers:—(i) Have similar objects and purposes; or (ii) Should, irrespective of their respective objects and purposes, be amalgamated, shall be amalgamated.

(8) *As to the Transfer of Surplus Assets in a Patriotic Fund :* This aspect is dealt with and provides power to the Governor-in-Council to direct that, in the case of a Patriotic Fund having surplus assets they:—(*a*) Be applied or used by the Trustees for any further objects or purposes mentioned in the definition of " Patriotic Fund," but not authorized by the Trust; or (*b*) Be transferred to and vested in the Trustees of some other Patriotic Fund; or (*c*) Be transferred to and vested in the Corporation of the Chief Secretary.

(9) *As to the Change of Name or Objects of a Patriotic Fund :* Where this is effected it is specifically declared that any liability of the Trustees prior to the change of name or objects is not prejudiced.

(10) *As to Misappropriation of Funds :* In any indictment, complaint or information charging any person with stealing any money raised for Patriotic purposes within the meaning of the Act it shall not be necessary for the prosecutor to prove the ownership of such money in the proceedings upon such indictment, complaint or information, provided that the averment is proved.

(11) *As to Investigations :* Power is taken for the Chief Secretary to order an investigation with respect to the administration of any Patriotic Fund or with respect to any Carnival, Fete, Art Union, Entertainment, or any other means for raising moneys or gifts for a Patriotic Fund. Such an investigator may exercise all the powers and jurisdiction of a Commission under the Official Inquiries Evidence Acts.

Real Property.—The amendment (No. 14) of the Real Property Acts dealing with ss. 60 and 61 thereof as to distraint arose out of a Judgment of the High Court in *George Myers & Co.* v. *A.M.P. Society* (47 Commonwealth Law Reports, p. 65). The result, briefly, of that decision was that when a person gave a mortgage over his land, he, by executing such security gave the right to the mortgagee of seizing and distraining, not only the land and improvements, but also his goods and chattels therein. The amending Act provides that such power of distraint will only obtain if expressly set out in the mortgage document, and if

such document is properly registered in the registry appropriate to the security in question.

This registration must be effected within three months of the execution of the document, and if executed prior to the passing of this Amending Act such Bill of Mortgage will have power of distraint, but only if registered within three months or such extended time as a Judge may allow.

Another amendment is to cheapen the transmission of land in small estates up to £300 in intestacy matters, following a principle already adopted in the Land Acts.

Power will be given to the Registrar of Titles to enter up transmission in favour of a person or persons who would have been so entitled if administration had been taken out. In the present Amendment the taking out of administration hence will be avoided, with concomitant saving of costs.

Provision is also made for a contingency in the event of a Court subsequently granting probate or administration and for the ratification of acts done in the meantime.

Building Societies.—The main object of this Amending Act (No. 15) is to give the Registrar wider and more adequate powers of control and supervision of these Societies.

Building Societies are exempt from the Company law provisions, and as the law has not been altered in principle since 1886 modern conditions require amendment.

A Society shall not be permitted to lend money on second mortgage. A Society may invest its funds in the same authorized Statutory investments as a Trustee under the Trustees and Executors Acts may so invest, excepting that it shall not invest on second mortgage security.

Every Society shall at each annual general meeting appoint an auditor or auditors (who must have the qualification of that of a certificated accountant). A certificated accountant must have qualifications similar to those possessed by accountants under the Trust Account Acts.

The remuneration of the auditor must be fixed at the meeting prior to the appointment of the auditor or auditors. The auditor is required to forward his report to the Registrar, who is enabled to make such orders and give directions as he deems necessary, which orders and directions must be obeyed by the Society and its officers concerned. Powers of inspection are given to the Registrar, on the principle of those appertaining in the State Trust Account Acts. Special audits are provided for, and in addition to a special audit demanded by a Society, the Registrar himself can so demand at the cost to the Society. Similarly on these special audits, any directions made therein by the Registrar must be obeyed by the Society.

Provisions dealing with termination or dissolution and the striking off from the Registrar of defunct Societies follow in the main the principles of the Companies Acts. Rights of members herein, however, are properly safeguarded.

Public Curator (No. 16) gives statutory recognition to the Public Curator Investment Board which has operated for some years past as an administrative body.

The Board is comprised of the Public Curator, the Insurance Commissioner and a Representative of The Treasury. Due provision is also made in regard to the continued liability and responsibility of the Public Curator in regard to investments and claims, but there is no right of action given against the Board itself.

Opportunity was also taken to simplify procedure in respect of claims by infants and the settlement of claims on their behalf for damages and other such matters.

The question arose out of a recent Supreme Court action wherein the Judge brought under notice of the Department the necessity of amendment of s. 51

of the Principal Act which is based on certain Imperial Rules of Court. As the law stood, any claim made in the Supreme Court could only be settled with the sanction of the Public Curator. In many cases this would entail delay and expense. It would require the Public Curator to make further inquiry, whereas the Judge himself would, if given the power, be able to approve or otherwise, as he would have all the necessary evidence before him. The amendment therefore enables either the Presiding Judge or the Public Curator to sanction settlement of such actions. Clarification of the law is also made in respect of moneys recovered on behalf of infants. If the amount received or awarded in a Magistrates Court does not exceed £50, the Court may direct the moneys to be paid, otherwise than to the Public Curator. Amounts exceeding £50 must, however, be paid over to the Public Curator unless the Court otherwise directs.

Provision is also made as to settlement of claims without Court action. Such settlements must be sanctioned by the Public Curator, and the money paid over to him in trust for the infant, unless the Court directs otherwise.

Power is also given for the Crown to pay to the Public Curator moneys in the nature of Crown debts.

All payments are to be applied by the Public Curator for the benefit of the infant, and such payments shall bind the infant. Recourse, however, may be had to the Court if specific directions are required for any particular case or matter.

Justices (No. 17) amends the Principal Act in several directions. It will permit of the evidence in indictable offences given in the lower Court by a member of the Allied Forces (including men and women) to be received at the trial in the Supreme Court on a certificate of the proper officer of the Force concerned that such member is unable to attend the trial on account of service with the Forces. Such evidence, however, is receivable unless the Court itself otherwise directs.

Another amendment will permit of cases involving the stealing of goods up to £5 in value to be tried in the place where the accused person is arrested, as well as the existing venue—where the offence is committed; but the accused person is allowed to consent or object to his being tried at such place of arrest.

Another amendment allows Justices to deal summarily with certain cases under s. 443 of the Criminal Code (mostly relating to stealing and allied offences) where the offender pleads guilty, notwithstanding that the statutory limitation, being a period of six months, shall have elapsed.

This amendment will hence avoid delay and costs which have occurred in committing the person for sentence to the Supreme Court.

Group Sales.—The object of No. 18 is to regulate and control the sale of goods by a method commonly known as " Group Selling." It is introduced as a measure of safeguard to the public especially in regard to the actions of certain unscrupulous traders and their agents.

A " Group sale " is defined as a contract of sale of any goods whereby the buyer is or may be expressly or impliedly entitled to be included in a group of buyers of goods from such seller, some one or more of whom will or may be given a benefit or advantage which will not be given to all members of such group.

The measure is to be read subject to the legislative powers of the State; this provision is necessary in view of s. 92 of the Commonwealth Constitution.

The measure is to be read with the Sale of Goods Acts, which provisions shall, save in so far as they are inconsistent with this Act, continue to apply to and with respect to contracts for the sale of goods by Group sale.

Every Group seller is required to have a proper registered office.

To carry on Group selling operations, a Group seller is required to deposit with the Treasurer a sum of £2,000 or Commonwealth securities to that extent. There is also an additional deposit required based on the turnover, but the

maximum deposit is £10,000. These moneys are held by the Treasurer in security for payment of damages payable by the Group seller to a buyer for a breach of a Group sale contract, refunds to be made by virtue of the Act by a Group seller to a buyer, and losses suffered by buyers on the winding up of a Group-selling business.

The Act requires that every person acting or carrying on the business of a Group seller at the commencement of this Act must make the necessary deposit within seven days after such commencement. Any other person must make the deposit before he commences business. Heavy penalties are provided for breach of these provisions. Group selling is also prohibited in the State, whether or not the contract is made outside the State unless a deposit is first made by the seller.

A Group seller must register his salesmen, and a Group seller operating outside the State must register every salesman selling on his behalf in Queensland. Registration may be cancelled in certain cases, and a convicted person cannot be so registered. Provisions deal with the liability of the Group seller for the acts and representations of his salesmen. Contracting out of the Act is also prohibited.

A Group sale is to be by description or by sample as well as by description, thereby ensuring that the seller shall obtain the proper goods contracted by him to be purchased. Provisions set out fair and equitable rules as to the delivery of the goods.

Provisions enable a buyer to obtain a refund with 4 per cent. interest added if the seller fails to deliver the goods contracted for, or if the contract of sale is void under the measure.

A contract is void if, in the event of dispute, the goods are not identifiable from description given at the time of sale or if the seller cannot deliver the goods contracted to be bought, and the buyer refuses to accept any other goods.

Due provision is made for the proper inspection and audit of the books and accounts of a group seller, and salutary provisions are prescribed dealing with punishment of offences under the measure. Wide power is given to make the necessary regulations.

Possessory Liens.—The principles of this Act (No. 19) follow in the main, the principles laid down in the Warehouseman's Lien Act of 1938. Its provisions will not affect the Contractors and Workmen's Lien Acts.

Any person who has in law a lien for an amount not exceeding £50 upon goods deposited with him for safe custody or for doing work or supplying material in relation thereto, may sell the goods in terms of this Act; but such sale must in no case be taken unless twelve months have elapsed from the accruing of the lien.

As in the Act of 1938, proper safeguards are provided as to giving notice of intention to sell and the proper advertising of sale.

Moreover the Court may stay proceedings in certain cases. When the sale has taken place, the holder of the lien may deduct reasonable charges for notices, etc., then satisfy himself of his debt, and pay over the balance to the proper person. He must also account for the surplus, and if the person entitled cannot be found, or there is a dispute as to whom should get the surplus, the money must be paid to the Public Curator. Payment of the debt and charges can, however, be made before sale, and if that occurs, the holder of the lien must deliver up the goods.

On no account, however, must a holder of a lien on goods sell the goods when the owner is on war service. This term is comprehensive, and includes not only the usual military, naval and air services, or nursing services, but means service in the Civil Constructional Corps established under the National Security (Allied Works) Regulations of the Commonwealth.

Succession.—During the war, it may happen that a bomb might destroy two

or more members of families at the same time. It would then be impossible to say who died first—*i.e.*, for the purpose of applying the principles of succession of property.

England has already provided for this contingency (by the Act 15 Geo. V, 5 ch., c. 20, s. 184). Queensland already provided for it, but only in respect of real property, at the inauguration of its Constitution in 1859, having adopted a New South Wales Titles to Land Act of 1858. However, the new amendment (No. 20) lays down that where two or more persons die in circumstances rendering it uncertain which of them survived the other or others, such deaths for the purpose of both real and personal property shall (subject, however, to any order of the Court) be presumed to have occurred in order of seniority, and accordingly the younger shall be deemed to have survived the elder. The relevant provisions of the Act of 1858 have therefore been repealed, and both real and personal property shall be dealt with under this principle accordingly.

Leases.—No. 22, being a war measure, will continue in operation until the last day of the first year to commence after the date on which His Majesty ceases to be engaged in the present war. It may, however, be extended from time to time by Order-in-Council. Its object is to make special provision in regard to lessors and lessees in the event of War Damage.

This measure provides that where there is in any lease a covenant to pay the rent reserved, it shall also be a covenant that if the demised premises and goods leased therewith shall suffer war damage rendering the same unfit for occupation and use by the lessee, the rent or proportion thereof shall abate according to the damage sustained, and all remedies for the recovery of the rent shall be suspended until the premises and goods concerned shall have been rebuilt or made fit for the occupation and use of the lessee.

Also where in any lease there is a covenant by the lessee that he will during the continuance of the lease keep the demised premises in good and tenantable repair or that he will at the termination of the lease yield up the demised premises in good and tenantable repair, it shall be implied in such covenant that War Damage shall be excepted.

In respect of War Damage, the lessor and lessee may agree among themselves as to adjustment thereof, and in default of adjustment may refer the matter to the Court for determination. Contracting out is prohibited.

A " lease " to come under the Act includes every letting of premises for any term not less than six months or for a life or lives, but must be in writing or by deed.

Companies.—No. 23 makes important amendments in the Principal Act of 1931. That Act, which was to a large extent based on a consolidated Companies Act of 1929 of the Imperial Parliament, practically formed a code of company law in this State.

Since 1931, Company law generally has been subjected to further scrutiny and amendment, not only by the Imperial Parliament, but by several of the States.

Recent amendments have been examined and Departmental recommendations closely scrutinized, and this measure may be said to have passed in order to simplify administration, as well as to afford further protection to the citizens as a whole.

The more important of the amendments may be observed.

In the first place " no liability " companies are brought within the ambit of the Principal Act, in that sections dealing with powers to alter share capital, provisions as to reduction of share capital, and as to returns of allotments of shares will apply to such companies.

The law as to the registration of mortgages is amended to follow the lines of a New South Wales Act of 1936. The existing law contained in the 1931 Act was based on the Companies Amendment Act of 1909. In fact the Act of

1931 made little change in the existing law at the time, doubt at that time having then been expressed as to constitutional difficulties. The Act will require the original mortgage document or a verified copy thereof to be filed with the Registrar. Previously particulars only were so required to be filed. Hence the public will be enabled to scrutinize the document or verified copy itself. This filing must take place within 30 days of the making of the document, or in the case of a mortgage created out of the State, 30 days on which the instrument or copy could in due course of post and if despatched with due diligence have been received in this State.

It has been stressed that in important transactions of this nature, the filing of mere particulars is not enough. Hence the instrument or copy will be available for perusal or search in the Registry. The same principle will apply in respect of debentures, and as to mortgages existing on acquired property. It has been laid down that such new practice will apply only to mortgages created after the commencement of the Act, in order of course to avoid any unnecessary business interruption.

As to moneys held in trust for third parties, where a receiver has been appointed on behalf of the debenture holders or in the case of a winding up, and the company or receiver or liquidator receives moneys which under a contract of insurance should properly go to third parties, such moneys will be held in trust for these parties to whom the moneys rightly belong and will be paid over to them accordingly.

Attention has also been given to the audit provisions of the Act. It is provided that a director or officer of a subsidiary company cannot be the auditor of the " holding company " and *vice versa*.

It is also provided that company auditors shall have proper accountancy qualifications. Rules may be made in this regard, but until rules are made the qualifications of a company auditor are those of a certificated accountant under the Trust Accounts Act and Regulations. A Company auditor must be of good fame and character, and must be in public practice and a member of the accountants' institutes or associations approved under the Trust Accounts Regulations, or must be in public practice and the holder of the diploma of associate in accountancy under the University Statutes, or while not possessing those qualifications, must be in public practice for at least five years and approved by the Auditor General as a person qualified to be a company auditor.

Further powers are given to the Governor-in-Council as to investigation of company affairs. Under the existing law, to obtain an investigation, a shareholder or a sufficient percentage of them must move in the matter. This position is unsatisfactory. It was remedied in South Australia by an amendment of the Company law in 1939. Shortly, the new provision will allow the Governor-in-Council to appoint a qualified person who may be a member of the staff of the Auditor General to investigate the affairs of any company. This appointment must be made on the recommendation of the Crown Law Officer; he in turn will not so recommend unless he has first received a report from the Commissioner of Police or the Registrar and the information contained in the report is such that he has reasonable cause to suspect that the company is not carrying on business in good faith in the interests of shareholders, or that the directors, managers or officers have been guilty of fraudulent or negligent conduct which has caused or likely to cause loss to the company or shareholders, or that the company is endeavouring to raise capital from the public by unlawful means.

The investigator so appointed has the same power and authorities as an investigator who may be appointed by the Crown Law Officer under the Principal Act, except that he sends his report to the Chief Secretary for submission to the Governor-in-Council. The report is then referred by the Governor-in-Council to the Crown Law Officer who has authority, after consideration, to institute the necessary legal proceedings.

Part X and Part XI dealing with British Companies and Foreign Companies have been entirely remodelled, and brought under one Part—Companies incorporated outside the State. These provisions follow recent Company law of the other States, especially that of New South Wales. At the present time British and foreign companies are not bound to register in Queensland; they may do so, and may by registering obtain certain privileges, but they are not legally compelled so to do. This new part will make registration compulsory. Every company incorporated outside the State is brought within its ambit. Such company shall within one month from the date at which it establishes a place of business or commences to carry on business in the State register with the Registrar of Companies and file a prescribed list of documents. The list resembles the list of documents in respect of the previous voluntary registration, but has several new requirements added; requirements in the nature of giving full information to the public.

Existing companies will also be required to furnish the list of documents prescribed for new companies, within periods of time as prescribed in the Act. Due provision is made for the company to have a proper agent, a proper registered office (service on the agent or at the office to be good service on the company). A company incorporated under the laws of the British Dominions is not, except by some Act, or Royal Charter competent to take and hold and convey land unless registered. This re-enacts the existing law. Similarly, a company incorporated according to the laws of a country outside the British Dominions can only take and transfer freehold of land upon receiving a licence from the Governor-in-Council. Usual provisions deal with winding up and procedure on a company of the nature concerned going into liquidation or ceasing business.

Attention has also been given to " share-hawking." It will be remembered that the share-hawking provisions followed the Imperial Act. However, since 1931, difficulties of legal interpretation have ensued. For instance, a person might escape liability if he rings up a householder on the telephone and makes an appointment; or if he offers the shares he is " pushing " not for cash but in exchange for other (and probably gilt-edged) securities. These legal methods of evasion will not avail the share-pusher in the future. An offer for shares for " purchase " will include offering shares for subscription or underwriting, or offering shares by way of barter or exchange whether wholly or in part for other shares or securities or property of whatever nature belonging to the member of the public concerned.

The Registrar is also given power in the direction of requiring a company to keep its books and registers and furnish its necessary returns in an up-to-date manner. Moreover, the section dealing with the removal of defunct companies from the register is amended by providing that the Registrar shall have reasonable cause to believe that a company is not carrying on business or in operation if such company fails to make the prescribed annual return within the prescribed time.

The measure also provides for facilities in proceedings for voluntary winding up and in the making of declarations of solvency in regard thereto and will guarantee adequate protection not only for shareholders but for creditors in this regard. The measure will also make it definite that claims for unpaid wages of employees shall have preference over all other debts in a winding up.

The above are the major principles of the measure. Other clauses more or less deal with machinery provisions or clear up doubtful points of administration. They also give additional powers to the Public Curator in certain instances.

Registration of Firms.—No. 24 enacts the law relating to firms to suit modern requirements. The original Act was passed in 1902 and amended in certain minor direction in 1912. Certain further safeguards have been shown to be

necessary in Departmental administration, and the more recent legislation of other States have also been considered.

The measure will come into operation from January 1, 1943, on which date all previous Acts are repealed, with the necessary savings. Usual provisions deal with the appointment of the Registrar and the necessary officers, and unless otherwise directed the Clerk of Petty Sessions will act as *ex-officio* registrar in his district.

Provisions set forth the duty of a firm to register, and machinery provisions deal with applications for registration, the period thereof, for renewals and also the penalties for non-observance of or breach of these provisions.

Changes in the constitution of a firm must be registered, and similarly registration is required in respect of change of place of business or on dissolution.

A firm name must not include the word "limited." This will prevent any confusion as to whether or not the firm concerned is a "company." A firm must not register under a firm-name which includes any of the following words, namely, "Royal," "King," "Queen," "Crown," "Imperial," "Empire," "Commonwealth," "State," or "Municipal," or any word in the opinion of the principal registrar signifying Royal or Government support or patronage, unless consent has been given to the use of such firm-name by the Governor-in-Council or by Royal Charter. No firm shall be registered under a firm-name including such words as "savings bank," "banking company" (and allied words), "trust," "guarantee," "building society" and such-like words. These restrictions are also in the interests of the public.

No firm shall register under any firm-name which in the opinion of the principal registrar is offensive or blasphemous, or likely to mislead the public as to the identity of such firm or as to the nature of its business, or indicates or implies that the business carried on or proposed to be carried on is connected with gambling, fortune-telling, astrology, marriage agency, or any occupation which is unlawful or contrary to public policy.

A registered firm is prohibited from carrying on business under an unregistered firm name. Special provisions deal with the duties of the registrar with respect to notices delivered to him and as to signature and acknowledgment of notices. Proper registers and indices must be kept by the registrar, and there is also power given to the registrar whereby he can remove names of firms from the register in certain cases.

Certain duties are prescribed on firms as to the use of the firm name, which must be painted on or affixed to the place of business and must also appear on its bill heads and other documents.

Wide power of inspection is given to the registrar of the books and accounts of firms not complying, in his opinion, with the registration provisions. Due provision is made for the imposition and recovery of penalties, and there is also wide power to make regulations.

Registration of Deaths.—No. 25 is complementary of Commonwealth legislation and is to enable a proper system of registration to be effected in case of the deaths of persons on war service.

The Registrar-General will be enabled to register such deaths if he obtains a proper certificate from the Defence Authorities, or in cases where the Registrar-General is satisfied after a careful search of the records.

If, however, the report of the death is erroneous, and a certificate from the Military Authorities is provided, or where the Registrar-General is himself satisfied on proper evidence, the Registrar-General shall cancel such registration and shall so far as may be possible recall every certified copy of entry of record of such death issued by him.

Members of the Forces Exemption (No. 28) amends the Act passed in 1940 in regard to exemption from death duties of the estate of persons dying on active service. Provision is now made that there shall be deducted in respect of such

part of the estate as passes to the widow, children, grand-children, parents, brothers, sisters, nephews, or nieces of the deceased, a sum of £5,000, or where the value of that part is less than £5,000 an amount equal to the value of that part.

Where any such estate is both in and out of Queensland such deduction shall be apportioned between the part of such estate in and the part thereof out of Queensland according to the respective amounts of such parts.

Constitution.—Certain Statutory Rules of the Commonwealth made under the Commonwealth National Security Act, 1939–40, provided for the removal of certain disqualifications of Members of Parliament of a State for holding certain offices of profit connected with the prosecution of the War. Doubts having arisen whether the Commonwealth Rules could apply in this State as amending the Constitution of Queensland, No. 30 was passed to remove such doubts. This Act will therefore remove any disqualification on a Member of the State Parliament by reason only that such Member accepts or holds, or has at any time since September 3, 1939, and prior to the expiration of the National Security Act, 1939–40 of the Commonwealth, accepted or held, certain offices in the Forces, or accepted certain pensions, or an office of profit under the Commonwealth National Security Act, 1939–40, or regulations thereunder, or an office which the Minister of State for Defence certifies that same is connected with the defence of the Commonwealth or the efficient prosecution of the war. And the same exemption obtains if such Member receives pay or allowances connected with the office in question.

It was considered that the services of a Member of Parliament could be well utilized on several boards and committees established pursuant to Commonwealth Rules. As certain of these are offices for which payment of services is allowed, a Member of the State Parliament would under the previous law as contained in the Officials in Parliament Act, probably be debarred from holding same in conjunction with his office as Member, and whether he accepted remuneration or not. This measure hence removes any question of such disqualification.

Friendly Societies (No. 35) makes various amendments in the Principal Act, the more important of which may be observed.

It definitely brings under its ambit a person, company or firm conducting funeral business alone, or burial benefit (including cremation) business alone, or the conduct of both businesses.

It makes further provisions for the winding up of those firms who were unable to carry on funeral benefit business after the passing of the Amendment Act of 1940, and makes proper allocation where the assets are mixed up with any other business, for instance, an undertaker's business.

This measure also alters the requirements in the matter of deposits requisite to the carrying on of sickness, medical and/or funeral and/or burial business.

Under the previous law, a person carrying on such business was required to deposit the sum of £2,000 or securities of that amount with the Treasurer. He was also required to make an additional deposit of £250 for every £20,000 or part by which the total amounts of benefits payable to contributors at the close of the last financial year exceeded £20,000. He was also required to pay over to a Benefit Trusts Fund certain amounts being proportions of contributions by contributors as an additional security. Moreover, this Fund cannot be used for any purpose other than that of payment of benefit to contributors or refunds in certain cases.

This measure, visualizing the difficulty, especially during the War, of making the above deposits, and finding the necessary moneys, will alter the law in the following direction:—(i) The first deposit of £2,000 or securities to that amount will still require to be made; (ii) The additional deposit as aforementioned will not require to be made; (iii) The Benefits Trust Fund aforesaid will not remain

with the Trustees of the person or firm conducting the business, but will be paid over to a Fund constituted at the Treasury called the " Sickness, Medical or Funeral Benefit Trust Fund."

This Fund shall be administered by a Board of Trustees appointed by the Governor-in-Council consisting of a representative of the Registrar of Friendly Societies (who shall be Secretary of the Board), the Official Valuer under the Friendly Societies Act for the time being, a representative of the Treasurer, and a person representative of the persons carrying on such class of business. The Fund shall be invested by the Trustees, and expenses of administration shall be paid out of the fund, which shall also be audited by the Auditor-General.

Machinery provisions are provided so that the former Trustee, or any Bank concerned shall pay over the moneys in their or its possession to the proper fund accordingly.

This measure, while it will relieve a hardship on the part of a firm carrying on such business in the matter of additional deposits, will at the same time afford adequate protection to the contributors in respect of such medical or funeral business.

Elections.—The main purport of No. 36 is to abolish what is known as the " contingent vote " at elections for Members of the State Parliament, and to declare that when a poll is taken the candidate who received the greatest number of votes shall be elected.

The " contingent vote " may be explained as follows. When there were three or more candidates a candidate was not elected unless he received an absolute majority of votes. If in any election there was no candidate receiving an absolute majority, all the candidates except the two who received the greatest number of votes were declared " defeated candidates." An elector was permitted to indicate on his ballot paper any candidate or candidates (other than the candidate for whom he voted in the first instance) for whom he desires his vote to be counted in the event of the candidate not receiving an absolute majority. Hence the vote of every elector who voted for a defeated candidate was counted for that one (if any) of the remaining two candidates for whom he had indicated that he desired his vote to be counted.

The votes so counted for such remaining candidates were added to the votes originally given for them and the candidate who received the greatest number of votes, including the votes so counted (if any) was declared elected.

The " contingent vote " was purely voluntary and, of course, differed from the compulsory preference vote.

The Amending Act therefore provides that the candidate securing the greatest number of votes shall be elected, and any second voluntary choice is eliminated. Due provision is also provided to guard against votes being declared informal by reason of the change of the voting method.

Jury.—The object of No. 37 is to relieve the difficulty experienced during the war of obtaining sufficient jurors in criminal cases, owing to military and " man-power " requirements.

It is provided that the Act shall, unless sooner repealed, continue in force until six months after His Majesty ceases to be engaged in war and no longer.

It is provided that for the purposes of any criminal trial with a jury, the jury shall consist of seven persons.

However, these provisions shall not apply if the Court thinks fit by reason of the gravity of the charge to direct that the provisions shall not apply.

And, moreover, they shall not apply in relation to the trial of a person charged of treason, wilful murder, murder, piracy, and attempted piracy, with violence, and conspiracy.

From June 1, 1943, the age of a juror liable to serve has been increased from 60 to 65 years. Instead of summoning 48 jurors, 28 only will be required

to be summoned, except at a sittings where there is a trial involving any of the above crimes, when the number summoned shall be 48 as before.

Likewise where 12 peremptory challenges were allowed, these are reduced to 7.

Civil Defence.—No. 27 extends the principles of the Air Raid Wardens Acts, 1939 to 1941, in order to make provision for the constitution of civil defence organizations, to prescribe the respective functions and duties of such organizations, and matters incidental to or consequent upon the constitution of such organizations.

Several new definitions clarifying various matters have been inserted, including " Air Raid," which will include an enemy attack of any kind whatsoever.

It is provided that the Commissioner of Police may, and was always authorized, to appoint air raid wardens. Such appointees shall be duly enrolled and shall have all such powers, authorities and duties and be subject to such obligations and responsibilities as may be conferred or imposed upon him by this Act or under any other laws.

Special provisions deal with the report for duty of an air raid warden. Due provision also is made in regard to air raid warning signals and the operation thereof.

Wider powers are given to make regulations to give full effect to the objects and purposes of this Act, and certain regulations are ratified.

Main Roads.—No. 32 amends the Principal Act in several directions. In the first place the Act lays down that the Commissioner of Main Roads shall not be liable to fence any road which he constructs through unenclosed land, or when he constructs or alters any road or deviation, to fence such road or deviation unless such road or, in the case of a deviation, the road from which such deviation was made, was substantially fenced prior to the commencement of the construction or alteration concerned. Nor shall the Commissioner be liable to pay compensation in respect of any such fencing.

In the second place, the Act lays down that where a right of resumption for road purposes is reserved in the Crown instrument of title, and such right states the extent of the area resumable without the defining the boundaries thereof, the Commissioner, if he requires any of such land for a road or a deviation, may take so much of the land as does not exceed in area the area of the reservation without being liable for compensation or to fence the road or deviation for which he requires such resumption.

But if the resumption concerned is " improved land " within the meaning of the Local Government Acts, the Commissioner shall pay compensation equal to the value of improvements. Moreover, if the area of resumption exceeds the area of reservation, the Commissioner is also liable to pay compensation as prescribed in the Act.

Owing to certain legal difficulties and uncertainties in the matter of grids, it is laid down that where the Commissioner erects or has erected a grid he shall be under no liability should any loss of stock be sustained by the property owner by reason of the presence of the grid.

For the purpose of co-operation with and assisting the Government of the Commonwealth in the prosecution of the War, the Minister may authorize certain payments from the Main Roads Fund which will be subject to adjustment and reimbursement by the Commonwealth.

Public Air Raid Shelters.—On Japan's entry in the War in December, 1941, the building of air raid shelters was accelerated in most of the cities deemed vulnerable of attack. The Government hence undertook to build shelters on behalf of certain local authorities, and the matter of adjustment of cost thereof was deferred. No. 31 therefore sets out the principles of the liability of Local Authorities for the cost of public air raid shelters in its area. It also enables a Local Authority to obtain loans from the Treasurer for the purpose of air raid

shelter construction, and it may levy special rates to meet interest and redemption.

Local Government.—No. 39 is introduced mainly owing to new Departmental arrangements whereby the control of local authorities, together with certain other allied instrumentalities, was transferred from the Secretary for Health and Home Affairs to the Secretary for Public Works.

Several verbal amendments were also made in the Principal Act, rendered necessary in the light of experience or occasioned through the War.

Provisions relating to the power of the Governor-in-Council to intervene with the object of suspending resolutions of the Council in regard principally to unnecessary expenditure follow in the main those obtaining in the City of Brisbane Acts. For the administration of the Act a Director of Local Government is appointed. He shall, subject to the Minister, be charged with Local Government administration. He may make inquiries and investigations, and while doing so shall have the powers and protection of a Commission under the Official Inquiries Evidence Acts.

The Minister may on behalf of a Local Authority undertake to construct water supply, or sewerage and drainage works on agreed conditions. Machinery amendments are made in the provisions relating to Shire boundaries and joint local authorities.

Certain rating adjustments are also made, and the maximum rate has been raised from 1s. to 1s. 6d. in the £1.

Certain arrangements are also made in respect of financial provisions regarding expenditure in doing or executing work directed by the Council of Safety under " The Public Safety Act of 1940 " or ordered to be done pursuant to the National Security Act, 1939–40 of the Commonwealth.

The Water Authorities Acts, 1891 to 1937, which have outlived their usefulness, have been repealed subject to certain savings. The Local Authority hence will be the Water Authority and usual transfer and vesting powers are prescribed.

At Thursday Island, the Town Council has been temporarily disbanded and the Department of the Army has taken control. Provision is therefore made whereby the Governor-in-Council may direct the Corporation of the Director of Local Government to do and execute such acts, matters and things and to take such action appertaining to the local affairs of Thursday Island and also in conjunction with the Commonwealth Authorities as may be deemed necessary and desirable.

Railways.—In 1931 an Act was passed authorizing the reduction of the Capital Indebtedness of the Queensland Railway Account standing at June 30, 1931, at the sum of over sixty-four million pounds by an amount of twenty-eight million pounds.

Provision was also made by ss. 6 and 7 of the Principal Act for the constitution of a Railway Renewals and Replacements Reserve Fund and also for prescribing certain sinking fund payments.

Difficulties having been experienced in administering the law appertaining to such funds owing to its uncertainty, it was resolved to repeal these sections, and to enact a workable provision as to the calculation of the net profit of the Railways Account which is contained in No. 33.

The rate of interest on the adjustable capital indebtedness was also fixed on a workable basis, as being the same average rate as applied to the Public Debt of the State as defined by the Treasurer in each financial year.

Industrial Arbitration (No. 3) makes various amendments in the Principal Act. It enacts that the Industrial Conciliation and Arbitration Acts shall be read and construed so as not to exceed the legislative power of the State (having in view the provisions of s. 92 of the Commonwealth Constitution).

Important provisions deal with the matter of work of an employee under an

Award being carried on partly within and partly without the State. It is now provided that where an employer in Queensland employs an employee whose employment is not wholly carried out in Queensland, but, with the knowledge and consent of the employer, is in part carried out in any part of the Commonwealth, any Award which would be binding if the whole work is carried out in Queensland is equally binding in case where some of the work as indicated is carried out outside the State and in some other part of the Commonwealth or its Dependencies.

In respect of actions for moneys due under Awards, the provisions of the Justices Acts apply so that if an order is made by the Industrial Magistrate for payment of such moneys, such order can be enforced in the same manner as a decision of justices with respect to a complaint of a breach of duty is enforced under such Acts. This provision will obviate additional proceedings in the Magistrates Court for the purpose of suing in a Civil Court on the order.

Mines.—The Coal and Oil Shale Mine Workers (Pensions) Act Amendment Act: No. 13 amends the Principal Act passed in the Session 1941 in certain directions.

The definition of " mine worker " is extended to include a manager, under manager, a coke-worker, superintendent, or instructor of a mines rescue brigade, clerical workers about a mine and inspectors (not being contributors to the Public Service Superannuation Fund). The retiring age of the new classes is fixed at 65, except in the case of coke-workers where the age is 60.

Miners on war service are not required to pay contributions during such absence.

A mine-worker is not entitled to the limited pension provided by s. 6 (3) of the Principal Act if during the three years before the commencement of this Part, or the date of the application, whichever is the later date, he has not been engaged in the coal or oil-shale mining industries in the State and during such period he has, in the opinion of the Tribunal, been continuously engaged in work other than as a mine worker.

The Tribunal may refuse to award an additional amount to the pension in respect of the wife, or may cancel so much thereof where it is satisfied that the wife is living apart from her husband and that the husband is not maintaining or contributing to her support. The Tribunal may cancel any pension improperly obtained. Widows' pensions must be taken into account in the fixation of the pension.

The Treasury contribution to the Fund is increased from £13,000 to £15,000.

4. SOUTH AUSTRALIA

[*Contributed by* E. L. Bean, M.A., LL.B., *Parliamentary Draftsman.*]

1941

A substantial part of the legislation of South Australia in 1941 related to the war. Although defence is primarily a Commonwealth matter, it is not, as was once thought, exclusively so. (See *Carter and others* v. *Egg and Egg Pulp Marketing Board of Victoria,* High Court of Australia, 26/11/42.) Many matters relevant to defence are within the legislative power of the State. The following are the more important Acts of 1941.

Emergency Powers.—No. 4 empowers the Governor to make regulations for securing and maintaining the safety and well-being of the civil population and for maintaining public order during war. In addition, and without limiting the general power, the Act prescribes a number of specific matters on which regulations may be made. These include evacuation of the civil population, safeguarding and regulating production, sale and distribution of goods, the regulation of transport and roads, the acquisition of property, the removal of

livestock, and the creation of administrative authorities. One of the main purposes of the Act was to enable regulations to be made governing the Civil Defence Force. This Force was already in existence on a voluntary basis for the purpose of dealing with air raids, evacuation of population and other problems likely to arise if the country should be invaded. The Act appropriates the sum of £250,000 for civil defence.

Emergency Supplies.—No. 20 was passed for the purpose of enabling the State Government to co-operate in what is popularly called "the emergency supply scheme." Under Commonwealth regulations, the State Government administered a scheme for the provision of reserve stocks of food throughout the State. The regulations provided that retail grocers must purchase and hold the reserves, finance being provided by the trading banks under guarantees given by the Commonwealth Bank. It was also provided that the Commonwealth Bank would pay the trading banks interest on the money provided by them for financing the scheme. It was part of the scheme that the ultimate liability should fall upon the State. It was thought that this could not be provided for by Commonwealth regulations, and therefore the State Parliament passed the Emergency Supplies Act empowering the State Treasurer to indemnify the Commonwealth Bank against loss arising out of the guarantees given by it, and to reimburse the Commonwealth Bank for the interest paid by it to the trading banks. The State Treasurer was also empowered to insure the reserve stocks.

Evidence.—No. 27 provides that naval officers of rank not lower than lieutenant, military officers of rank not lower than captain, and air force officers of rank not lower than flight lieutenant, can take affidavits and declarations made by members of the fighting forces out of the State for use in the State.

Increase of Rent.—When war broke out in 1939 the rent of every dwelling house was by the principal Act fixed at a "standard rent," that is to say, the amount charged at the outbreak of war. In some cases it turned out that the standard rent was abnormally low—*e.g.*, where the tenant was a near relative of the landlord. To meet these cases Parliament enacted in the amending Act of 1941 (No. 28) that the standard rent should not be less than the annual value of the property as fixed for rating purposes by district and municipal councils. The Act also provided that it should be an offence for a landlord to demand or receive or agree to receive more than the standard rent. Previously the only remedy available to the tenant against a person charging more than the standard rent was civil proceedings for recovery. The amending Act also provided that in no case should a tenancy of a dwelling house determine except upon written notice by the landlord specifying the grounds of the determination.

Eggs.—No. 41 sets up an Egg Marketing Board, and provides for a compulsory pool of eggs. The Board contains representatives both of producers and merchants, presided over by an independent chairman. Every person who keeps more than twenty laying fowls and who has eggs for sale must sell them to the Board. The Board is required by the Act to market the eggs (either in shell or after processing) and to make payments to the producers in accordance with the net amounts realized.

Liquid Fuel.—No. 21 is another Act arising out of war conditions. The restriction on the use of petrol by civilians has encouraged the manufacture of substitute fuels, including power alcohol and benzol. Parliament desired that those who produced these substitute fuels should be assured that there would be a market for a reasonable quantity of them, and therefore passed the Liquid Fuel Act, which provided that every person who sells ordinary motor spirit by wholesale, must also purchase and pay for the prescribed amount of substitute liquid fuel for every hundred gallons of motor spirit sold by him. The exact substitute fuels to which the Act applies are left to be determined by the Government.

Public Service.—In normal times the retiring age for the South Australian Public Service is 65 years for men and 60 years for women. Extensions are rarely granted, and only in exceptional cases. The amending Act (No. 22) empowers the Government to employ persons in the Government service who have reached the retiring age. Persons so employed may be retained for the duration of the war and twelve months thereafter, but not later than the age of 70 in the case of a man or 65 in the case of a woman. If a person employed after the normal retiring age has retired upon pension, he will continue to receive his pension during the temporary employment.

Industries Development.—No. 29 is another instalment of the policy which has been pursued in recent years for encouraging the development of new industries in South Australia. The Act sets up an Industries Development Committee, which consists of three members of each House of Parliament and an outside chairman. Any person engaged or about to engage in an industry may apply to the Treasurer to guarantee a loan made or to be made to him. The Industries Development Committee will enquire into the industry, and if it reports that the industry is likely to be profitable and recommends a guarantee the Treasurer may give one. The public funds are made liable to satisfy any moneys due by the Treasurer upon the guarantee.

Homes.—No. 36 also provides for Government guarantees. It declares that the Treasurer may give guarantees for the purpose of encouraging the building and purchase of dwelling houses. Guarantees may be given in favour of any of a number of institutions set out in the Act. The institutions prescribed include all the principal building societies and friendly societies of the State, the Savings Bank of South Australia, and the South Australian Superannuation Fund. A guarantee may be given for repayment either of a loan made by an institution, or of the purchase money payable for a house sold by an institution under agreement for sale and purchase. No guarantee will be given where the loan or the amount of purchase money, exclusive of deposit, exceeds £1,000. The guarantee only applies to that part of the loan or purchase money which is in excess of seven-tenths of the value of the house, but in no case is it for more than one-fifth of that value. As the borrower or purchaser repays the loan or purchase money by instalments the amount for which the Treasurer is liable on a guarantee is reduced by half the amount so paid. A commission of one-quarter per cent. per quarter on any amount guaranteed is payable to the Treasurer for the guarantee.

State Bank.—No. 23 increases the capital of the State Bank from £4,000,000 to £5,000,000. The State Bank is an institution which administers on behalf of the Government a number of Acts providing for the financing of home builders and primary producers, and also conducts general banking business. In addition to increasing the capital, the Act also enacts that when the Bank has lent money upon the security of a Crown lease or an agreement to purchase Crown land, and the lease or agreement has upon the default of the mortgagor become vested in the Bank and has subsequently been cancelled by or forfeited to the Crown, the Treasurer of the State will pay to the Bank one half of the amount owing to the Bank under the mortgage at the time of the cancellation or forfeiture.

Stock Foods.—No. 32 provides that on every sale of stock food either a label must be affixed to the package containing the food, or an invoice given to the purchaser, showing the name and place of business of the person who manufactured the stock food or imported it into South Australia or previously placed it on the market, the distinguishing name (if any) of the stock food, a chemical analysis stating the minimum percentage of crude protein and of crude fat and the maximum percentage of crude fibre contained in the food, and any other prescribed particulars. The label or invoice is to have effect as a warranty.

The Governor is given power to make regulations prescribing standards for stock foods and penalties are provided if any stock food is sold which contains any deleterious or worthless ingredients, unless that fact is disclosed to the purchaser.

Railways Commissioners (Appeal Board).—No. 47 relates to the Railways Service Appeal Board, which deals with appeals against punishments imposed by the Railways Commissioner on his employees for misconduct. Under the principal Act the Board consisted of five members, of whom only one was representative of rank and file of the employees. The others were all railway officers holding managerial positions, whose point of view might be regarded as coinciding with that of the Commissioner. The amending Act provides that the Board will consist of three members only, one representing employees, one representing the Commissioner and an independent chairman. It also provides that the Railways Commissioner will not be entitled to dismiss an employee for misconduct without calling on him to show cause why he should not be dismissed.

Juvenile Courts.—No. 13 contains special provisions relating to the trial of children. Whenever a child is being tried for an offence, or on complaint for being a neglected or destitute child, or for truancy under the Education Act, the court of summary jurisdiction which tries him must be specially constituted either of a special magistrate or of two justices selected from a panel of justices specially qualified to deal with children. On the trial of a child its parent or guardian must attend the court, unless excused. The public are not admitted to the court except under a special order of the court. Newspapers cannot publish information showing the identity of a child defendant. The court may require a child defendant to be examined by a physician, psychiatrist or psychologist and may accept the report of the examiner as evidence. The age of criminal responsibility of children is raised from seven years to eight. The Act also gives statutory force to the practice of many years' standing, that a person under eighteen is not to be punished for a capital offence by death, but is to be detained during the Governor's pleasure.

1942

THE Parliament of South Australia passed thirty-seven Acts in the Session of 1942. A substantial number of these dealt with problems arising out of the war. The more important Acts are as follow:—

Amusements Duty.—No. 5 suspends until the end of the first financial year after the end of the war those provisions of the Stamp Duties Act which relate to the collection of amusements duty. It was passed as a war measure at the request of the Commonwealth Government as part of a scheme under which the Commonwealth will during war time be the sole authority levying tax on amusements.

Births and Deaths Registration.—No. 11 makes special provision for the registration of the death of any person who dies within the State on war service, or at sea on a British ship during the continuance of any war. Any such death may be registered on the certificate of a medical officer of any naval, military or air force of the Commonwealth or other part of His Majesty's Dominions or of any country allied with His Majesty, or on the certificate of any officer in charge of the records of any such force. In the case of a death at sea, the death may be registered on the certificate of the master or surgeon of the ship.

Provision is also made for the giving of death certificates by medical practitioners who, though not qualified to practise under State law, are licensed to practise under regulations made under the National Security Act, 1939–1940 of the Commonwealth.

Constitution.—No. 8 removes a doubt as to the power of the Governor's Deputy to act during the illness of the Governor. The Lieutenant-Governor

raised the question whether under the Letters Patent of 1900 and 1938 the Governor's Deputy is entitled to exercise the non-statutory or prerogative powers of the Governor in the event of the Governor's illness. The Act contains an amendment to place this matter beyond doubt. It also extends the power of the Governor to appropriate revenue by warrant in anticipation of an appropriation by Parliament. The previous law was that the Governor could appropriate up to £250,000 in any year. This amount is increased to £400,000 for the duration of the war.

Dairy Industry.—The general object of No. 31 is to provide that milk depots (which are defined as premises where more than 50 gallons of milk are pasteurized or chilled on any day) will be subject to the control and inspection provided for by the Dairy Industry Act, 1928–37. This Act previously applied only to dairy farms and dairy produce factories.

Dairy Produce Act.—No. 6 extends until 1944 the operation of the Dairy Produce Act, 1934–1937, under which the amount of butter and cheese to be sold locally are fixed and which forms the legal basis for the Commonwealth Dairy Produce Equalization scheme.

Education.—No. 24 provides for the licensing of private technical schools. A private technical school is a school in which a trade is taught for fee or reward. The Act declares that after the first day of June, 1943, every private technical school must be licensed. Applications for licences must be made to the Minister of Education; and a school will have a right to a licence if the Minister is satisfied that it has competent instructors, suitable accommodation and sufficient equipment for the teaching of the trades intended to be taught, and charges reasonable fees. Licences remain in operation for three years. Any licensed school may be inspected by the Minister.

Fire Brigades.—No. 32 enacts that the Fire Brigades Board may apply its funds in providing life insurance, pensions, annuities, retiring allowances and other financial benefits for officers and members of fire brigades and their dependents. It also provides that the contribution of the Government towards the expenses of the Fire Brigades Board may include two-ninths of the cost of providing any such pensions or other benefits.

Income Tax.—No. 25 contains provisions for carrying out the war-time scheme for a uniform income tax throughout the Commonwealth. It provides that the State Income Tax Acts will be suspended until the end of the first financial year which commences after the end of the war. A number of incidental provisions are included to provide for the collection of arrears of State tax due at the time of the commencement of the scheme, or becoming due thereafter.

Landlord and Tenant.—No. 33 repeals the Increase of Rents (War Restrictions) Act, 1939–1941, which provided that rents of dwelling houses were pegged at the amounts actually charged on September 1, 1939, and substitutes a more comprehensive scheme of rent control.

The Act applies to all dwelling-houses, parts of dwelling-houses separately let, and to any premises leased partly for the purposes of residence and partly for the purpose of being used as a shop, storeroom, workshop, stable or any similar purpose. The Act applies to furnished and unfurnished premises. The Act does not apply to premises licensed for the sale of liquor, any premises ordinarily leased for holiday purposes only, or the premises of any grazing area, farm, orchard, market garden or dairy farm. The Act does not apply to premises let by the Crown or any Government instrumentality or to any premises the rent of which is controlled under the Housing Improvement Act, 1940.

The Act is to continue in force until six months after the termination of the present war.

Unless altered as provided by the Act, rents of premises to which the Act

applies are pegged as follows:—(*a*) If the premises were let on August 1, 1942, the rent is pegged at the rent lawfully charged at that date. (*b*) If premises were not let on August 1, 1942, the rent is pegged at the rent first charged after that day.

The lessor or lessee of any premises may apply to the South Australian Housing Trust to have the rent of the premises fixed. The Trust is also given power to fix rents on its own motion.

Premises of which the rent is to be fixed by the Trust are required to be inspected by the Trust or its officers and, after inspection, the Trust provisionally fixes the rent and gives notice to the lessor and lessee. The lessor or lessee may object to the amount of the rent so fixed. If no objection is made, the Trust finally fixes the rent at the amount provisionally determined. If objection is made, the Trust must consider it and make a final determination of the rent.

The lessor or lessee may appeal from the determination of the Trust to the nearest local court of full jurisdiction.

The rent to be fixed by the Trust or the court is the rent deemed to be fair and equitable after having regard to the accommodation provided in the premises, its state of repair and general condition, the neighbourhood and amounts payable for furniture, electricity, gas, etc. If the lessee's habits are dirty, harmful or careless, this must be taken into account. If the premises are let furnished, a furnished and unfurnished rent must be fixed.

Once the rent of any premises is fixed, no further application for the fixation of the rent may be made until after the lapse of six months, except where an error or omission has occurred or where substantial changes have been made in the premises.

The Act prescribes penalties for the charging of rents in excess of those pegged or fixed under the Act.

Land Tax.—No. 34 deals first with the exemption from land tax of land used for charitable purposes. Under the principal Act land is exempt from tax if it is used solely for charitable purposes. "Charitable purposes" is defined to mean the affording of gratuitous tuition, assistance or relief to poor and helpless persons. In practice, however, exemption has been granted to a number of institutions which make some charge for the assistance and tuition which they grant. The object of the amending Act is to legalise the practice which has grown up. The Act therefore provides that if an institution provides living accommodation, food, clothing, medical treatment, nursing, pre-maternity or maternity care or other help, either without cost to the recipients or at a cost substantially less than its true value, then the institution will be exempt from land tax. Charitable institutions subsidised by the Government are also declared to be exempt.

The Act also deals with some administrative difficulties which have arisen under the section of the principal Act which provides that the owner of land on which land tax is owing may transfer the land to the Commissioner of Taxes. The amendments provide that the land transferred to the Commissioner of Taxes may be vested in the Commissioner of Crown Lands, and the title registered in his name, so that the Commissioner of Crown Lands may dispose of the land in accordance with the recommendation of the Land Board.

Coal.—No. 16 confers upon the Government power to mine the coal deposits at Leigh Creek (which is situated in arid pastoral country about three hundred and fifty miles north of Adelaide) and to use, sell or otherwise dispose of the coal so mined. It also provides that the Governor may make regulations for encouraging, promoting or requiring the use of coal mined pursuant to the Act.

Marketing of Eggs.—No. 3 extends the powers of the State Egg Marketing Board. In the past the functions of this board have been restricted to buying and selling eggs and processing eggs of which the board is owner. The board had no power to process eggs on behalf of other persons. In view of arrange-

ments made between the State and the Commonwealth, under which it is provided that the Board will pulp and dry eggs on behalf of the Commonwealth, this amending Act confers upon the board power to dry and pulp eggs whether owned by itself or any other person, and to purchase and erect any machinery necessary for that purpose.

Pharmacy.—No. 27 provides that during the war the period of apprenticeship and training for pharmaceutical chemists will be reduced from four years to three years. It also contains provisions designed to prevent "chain store" pharmacies. Companies, other than existing companies, are forbidden to carry on the business of pharmacy; and existing companies are forbidden to carry on this business in any shops in excess of the number in which they were carrying on at the time of the passing of the Act. The Act also forbids the use of trade names in connection with the business of pharmacy. Every person or company carrying on business as a pharmaceutical chemist must do so under his or its true name.

Producer Gas Equipment.—No. 20 deals with the legal doctrine of accessio in relation to producer gas equipment. The problem is—if producer gas equipment owned by one person is attached to a motor vehicle owned by another, does the equipment become part of the motor vehicle so that the ownership of it passes to the owner of the vehicle? The previous law was doubtful. Probably the principle of accessio applied, with the result that the equipment, upon being attached to the vehicle became the property of the owner of the vehicle. The Act provides that the ownership of producer gas equipment will not be affected merely because the equipment is attached to a motor vehicle. It also provides that a person who holds a motor vehicle under a hire purchase agreement and has carried out the terms and conditions of the agreement shall, subject to any express agreement to the contrary, be entitled to fix producer gas equipment to the vehicle.

Public Service.—No. 28 provides for what is commonly called "higher duty pay." When an officer of the Public Service performs for more than four weeks all or any of the duties of an office other than that on which his classification is based, the Public Service Board is required to fix the salary to be paid to him while holding the higher office. If the officer performs substantially the whole of the duties of a full-time office higher than his own, he must receive a salary not less than that fixed for the higher office.

The Act also extends the period of annual recreation leave for public servants from two weeks to three, but provides that the increased leave will not be available until after the war. It increases also the period of long service leave for public servants. Under the previous law the general rule was that a public servant was entitled to two months' leave on full pay for the first ten years of service, and a further two months for the second ten years; but no leave could be granted for any fractional part of a period of ten years' service. The effect of the Act is that public servants will receive 90 days' leave on full pay for the first ten years of service, and nine days' leave on full pay for each year of service in excess of ten years. The increased periods of leave, however, will not be granted during the war except where the public servant intends to retire upon the termination of the leave.

Remission of Registration Fees.—No. 12 empowers any statutory body charged with the duty of registering or licensing the members of a profession or calling to remit fees payable to the Board by a member of a fighting force, if the body considers that circumstances connected with the war justify it in doing so. Any such body is also empowered to remit any penalty imposed by it upon a member of a fighting force.

Road Traffic.—No. 17 empowers the Registrar of Motor Vehicles to refund a motor registration fee if the vehicle in respect of which it was paid ceases to be used on roads by virtue of any Commonwealth or State law. It also

provides that an insurer who has issued a policy under the statutory provisions relating to compulsory third party insurance, will be liable upon the policy, notwithstanding that the insured has not paid the premium.

Savings Bank.—No. 13 makes a number of miscellaneous amendments to the Savings Bank of South Australia Act. The most important of them are the following:—

(*a*) The power of the trustees of the Bank to invest its reserve funds in buildings is extended. Under the principal Act the Bank can only acquire buildings for the purpose of carrying on the business of the Bank. The new Act empowers the Bank to invest funds in lands and premises of any kind which the trustees deem desirable.

(*b*) S. 14 extends the power of the Bank to maintain agencies in other States and countries. At present the only place outside South Australia where the Bank can lawfully maintain an agency is London. It is proposed that the Bank shall be empowered to open an agency in any part of the world.

(*c*) The Act confers upon the Bank power to open a safe deposit and to offer facilities for its use to the general public, whether depositors in the Bank or not.

(*d*) Finally, officers of the Bank are empowered to execute, on behalf of the Bank, documents which formerly had to be executed by the trustees under seal.

Shearers Accommodation.—No. 35 provides that employers of shearers are to provide certain comforts and conveniences for the shearers.

South Australian Housing Trust.—The South Australian Housing Trust is a semi-governmental body which has been very successful in providing low-cost but substantial houses for wage-earners at moderate rents. Under the principal Act the Trust cannot spend more than £500 in building any house in the metropolitan area of Adelaide nor more than £550 elsewhere. No. 21 raises these amounts to £600 and £650 respectively.

The principal Act provides that houses of the Trust may be let only to persons whose family incomes do not exceed the prescribed amounts. It is provided that in computing any family income payments for child endowment and wages received during war at penalty or overtime rates may be excluded.

Other amendments are made for the purpose of providing some degree of Ministerial control over the administration of the South Australian Housing Trust.

Stamp Duties.—No. 22 empowers the Treasurer to accept from any bank a sum in compensation of all duty payable on bank notes issued by the bank. It also exempts from duty transfers of securities rendered necessary owing to the closing of branches of banks under the Commonwealth scheme for the rationalization of banking. Bills of exchange drawn during the present war and a period of twelve months thereafter for the purposes of the Government of the United States of America by any member of any naval, military or air force of that Government or by any consular representative of that Government are also exempted from stamp duty.

Succession Duties.—No. 23 provides for exempting from succession duty the estates of members of Allied Forces who die on service or as a result of service during the present war.

Superannuation.—No. 29 increases the maximum amount of pension for which a State public servant can subscribe, from 8 units of £26 each to 12 such units, and provides that a public servant temporarily transferred from the State to the Commonwealth, may subscribe for the number of units of pension appropriate to the salary received by him from the Commonwealth. It also prescribes additional benefits for the orphan children of a deceased contributor or pensioner.

Trustee.—No. 14 empowers the persons who, under a trust instrument, are empowered to appoint new trustees or, if there is no such person, then the trustees for the time being or the representatives of the last surviving or

continuing trustee, to appoint one or more additional trustees. The power will be available unless the trust instrument expressly provides otherwise.

University of Adelaide.—The first matter dealt with by No. 23 is the office of Vice-Chancellor of the University of Adelaide. Under the principal Act the Vice-Chancellor was elected by the Council of the University and was required, in all cases, to be a member of the Council. There was no provision for payment of salary. The amending Act provides that the Vice-Chancellor need not be a member of the Council, and may hold office on any terms and conditions and at any salary fixed by the Council. The object is to empower the Council, if it so desires, to appoint a full time salaried Vice-Chancellor. The Act also increases the annual grant to the University out of the public funds from £30,000 to £40,000.

5. TASMANIA

[It is hoped to publish the review in the next issue.]

6. VICTORIA

[*Contributed by* S. H. Z. Woinaski, Esq., M.A., LL.D.]

Sixty-three Acts were passed in 1942 in the third session of the Thirty-Fourth Parliament. As in the previous year, the demands of State legislation were overshadowed by the imperious requirements of national security and the spate of regulations which was thought to be necessary to that security. None the less the State Parliament was able to enact a number of measures of importance to the Victorian, and eight of these are dealt with below as possessing a wider significance. It will be observed with varying degrees of sentiment that they largely relate to professional or occupational controls.

Survival of Actions.—No. 4918, which greatly limits the application of the common law rule—*actio personalis moritur cum persona*—closely follows the provisions on this matter of the English Law Reform (Miscellaneous Provisions) Act, 1934 (24 & 25 Geo. V, c. 41), but with certain modifications of that Act derived from the New Zealand Law Reform Act of 1936 (No. 31 of 1936). Subject to certain exceptions and limitations, the Act provides that causes of action subsisting against or vested in a person at the time of his death shall survive against or for the benefit of the deceased's estate. As a recognition of the part which the motor car has played in bringing about this reform, the Act makes certain consequential amendments to the Motor Car (Third Party Insurance) Act, 1939.

Constitution.—No. 4896 reduces from fifteen to twelve the minimum number of members which a recognized party in the Legislative Assembly must comprise in order that the leader of that party in the Assembly may be eligible to receive an allowance from the Crown without violating the provisions relating to officials in Parliament.

Legal Profession Practice.—No. 4924 amends existing legislation by empowering the Attorney-General to appoint an inspector to examine and audit the books of a solicitor upon proper application by the Secretary of the Law Institute and not only, as heretofore, upon application by a person alleging that the solicitor has failed to account for money or securities belonging to or held for him. For this purpose a bank at which the solicitor keeps an account is required to produce books, accounts and documents relating to the trust account of such solicitor upon the written demand of the inspector so appointed, and to produce such books, etc., relating to the private account of such solicitor upon the written demand of the Attorney-General, and is saved from any liability for such disclosure. In addition, a solicitor who fails to give a

satisfactory explanation of any deficiency in his trust account or of his failure to account for moneys or securities received for another person is made guilty of a misdemeanour and liable to imprisonment not exceeding seven years.

Motor Car.—No. 4925 which is an amending Act, introduces some temporary reductions in fees payable by law in respect of the registration of certain motor vehicles, and reduces for the duration of the war from eighteen years to seventeen years the minimum age at which a person may be granted a licence to drive a motor car. On the other hand, of a permanent character is the provision which empowers the Chief Commissioner of Police, subject to an appeal to a court of petty sessions, to cancel or suspend a driving licence on account of unfitness to drive by reason of bodily infirmity.

Coal Miners' Pensions.—No. 4932 is a noteworthy piece of social and industrial legislation. Its object is sufficiently indicated by its formal title "An Act to prohibit the employment in the coal mining industry of certain persons of or above the age of sixty years and of certain other persons of or above the age of sixty-five years and to make provision for and with respect to the payment to such persons and certain other persons and for other purposes." In face of this description the details to achieve these objectives are superfluous, but it is interesting to note that the Act follows New South Wales and Queensland legislation on the subject.

In substance the Act provides for the retirement from employment in or about coal mines of persons who obtain the "retiring age," that is, sixty-five years in the case of managers and under-managers and sixty years in the case of other mine workers. Provision is made for the payment of retiring pensions to mine workers who before retirement have qualified for such pensions by reason of length of service in the coal mining industry in one of the several ways specified in the Act, and for the payment of disablement pensions to such qualified mine workers who are totally or partially incapacitated by injury. Pensions for dependants are also included. The scheme for the detailed working out of these provisions is contained in the Act; it is based on the creation of a Coal Mine Workers' Pensions Fund which is contributed to by owners and workers and placed in the hands of a Pensions Tribunal constituted *ad hoc*. Machinery to effect this end completes the Act.

Patent Medicines.—No. 4934 provides for the registration of patent medicines, and for their sale and advertisement. "Patent Medicine" is defined, substantially, as including all human medicines except medicines dispensed or prepared for specific cases or standard medicines contained in the British Pharmacopeia, the British Pharmaceutical Codex, or the Australian and New Zealand Pharmaceutical Formulary. The scheme of the Act provides for wholesale dealers (*i.e.*, a manufacturer or importer or other person who is primarily responsible for placing any patent medicine on the market in Victoria) to make application to the Chief Health Officer for registration. Applications are to be submitted to an advisory committee, the constitution of which is provided for, and on the receipt of the committee's report and recommendation the Chief Health Officer is to determine whether a patent medicine shall or shall not be registered and the purposes for which, if registered, it may be sold. An appeal may be had to the Supreme Court against this determination.

Provision is made for the keeping of a register of registered patent medicines and for the publication of the register, but so that such publication shall not disclose any details of the composition or prescription of the medicines concerned. After the first publication of the register the sale of an unregistered patent medicine or of a patent medicine which does not conform to the relevant composition or prescription, or the publication of any advertisement containing any claim as to the efficacy of the medicine for purposes other than those in respect of which it is registered, or any claim which is false or misleading, is made an offence against the Health Acts. The registration of any patent medi-

cine may be cancelled if the wholesale dealer in that medicine has been twice convicted under the Act of an offence relating to that medicine. Provisions ancillary to these purposes complete the Act.

Land Surveyors.—No. 4939 consolidates and amends the law relating to surveyors. With amendments of substance and with considerable verbal changes the Act repeals and re-enacts the Land Surveyors Act of 1928. Under the new Act the Surveyors Board is reconstituted and is empowered to prescribe preliminary educational standards and courses of training in surveying (including training under indentures of apprenticeship), to hold examinations, to issue certificates of competency, to grant licences, to register licence holders, and to suspend or cancel licences. Special provision is made enabling the Board to enter into reciprocal arrangements with the Surveyors Boards of other parts of the Dominions, including the United Kingdom, for the purpose of securing uniformity in training and examination.

Licences entitling persons to practise in Victoria are not to be issued except to British subjects, 21 years of age or more. Provision is made for the keeping of a register of licensed surveyors, and for empowering the Board in certain cases, subject to an appeal to a judge of the County Court, to cancel or suspend a licence. A person who is not a licensed surveyor is prohibited from using that title or to make or certify any title survey, *i.e.*, a survey relating to the alienation of Crown lands or affecting title to lands. The removal, mutilation, or defacement of survey marks and the obstruction of surveyors in the execution of their powers and functions are made offences under the Act, which permits surveyors to enter upon land and to place survey pegs or other survey marks thereon without being liable for trespass, although being liable for any damage caused. Certain financial provisions and provision of purely local concern complete the Act.

Dietitians.—No. 4942 brings under control those persons engaged in the occupation of dietetics. Beyond that fact there is no novelty in the legislation, which conforms to the familiar pattern of constituting a Board (in this case the Dietitians Registration Board) with power to prescribe courses of training in dietetics, to hold examinations, and subject to an appeal to the Supreme Court, to register dietitians and in certain circumstances to cancel or suspend their registrations. It follows that the Act prohibits unregistered persons from practising consultant dietetics (*i.e.*, the giving of dietetic treatment, attendance or advice for fee or reward—in contrast with constitutional dietetics or the supervision of patients' diets in hospitals, etc.). Further, the Act requires registered dietitians to practise under their own names and prohibits the use of such titles as "Dietetic Company" or "Dietetic Institute" by individual dietitians or associations, and also the use of any dietetic title by a company. Medical practitioners and registered dentists and, in a limited degree, nurses, mothercraft nurses and domestic science practitioners are exempted from the provisions of the Act.

Constitution.—For purposes of record this survey would be incomplete without reference to the Bill which was passed through both Houses of the Victorian Parliament and reserved for the Royal Assent. This Bill is intituled an Act to refer certain matters to the Parliament of the Commonwealth until the expiration of five years after Australia ceases to be engaged in hostilities in the present war, and was introduced to give effect to the resolutions of a Convention of representatives of the Commonwealth and the several Australian States convened to meet at Canberra in November, 1942. It refers certain matters to the Federal Parliament as contemplated in placitum (xxxvii) of s. 51 of the Commonwealth Constitution for the period in question. The Bill, when it becomes law, is to come into operation when the Governor in Council declares that the same or substantially the same legislation has been enacted in each of the other States and is not to be repealed or amended except with the approval of a majority of

electors voting at a referendum of electors qualified to vote at Legislative Assembly elections. As a matter of history the Parliament of Tasmania alone of the States refused to enact the same or substantially the same legislation.

7. WESTERN AUSTRALIA

[It is proposed to publish the review in the next issue.]

IV. NEW ZEALAND

[*Contributed by* J. CHRISTIE, ESQ., C.M.G., LL.M., *Counsel to Law Drafting Office.*]

THE Fourth Session of the 26th Parliament of New Zealand was begun in December, 1941, and continued (with frequent adjournments) until December of the following year. During this protracted period only twenty Public Acts, seven Local Acts and three Private Acts were passed. This paucity of legislation is to be accounted for by the continuance of the war. Few of the Acts passed call for notice in this Review.

The following is a brief summary of the more important enactments.

Overseas Representatives.—The Overseas Representatives Act (No. 1) preserves the parliamentary and electoral rights of persons appointed to hold office overseas as diplomatic representatives or as representatives of the Government of New Zealand. By virtue of this Act, acceptance of such an office does not deprive the holder of his office as a member of either House of Parliament or of his right as a voter in any electorate, notwithstanding that it may entail protracted residence out of New Zealand.

Finance.—Two Finance Acts were passed in 1942. No. 2 increased the rate of excess-profits tax (from 60 per cent. to 75 per cent. of the amount with respect to which that tax is calculated); and also increased by 50 per cent. the rate of the national security tax. Provision was also made for deductions, in satisfaction of income-tax, being made from any moneys payable by employers or debtors to income-tax defaulters.

No. 14 is a somewhat more comprehensive measure, and deals, *inter alia*, with the following matters:—

(1) S. 2 authorizes the making of grants to individuals from the Dairy Industry Account towards the cost of defraying capital expenditure involved in reorganizing the dairy industry to meet wartime requirements or post-war conditions (*e.g.*, change-over from butter to cheese, or *vice versa*).

(2) S. 12 makes provision for the recoupment from the Social Security Fund of portion of the fees paid by patients to medical "specialists." The provision of free "medical benefits" under the Social Security Act is limited to "general practitioner services," and the provision now made for refunds (a maximum of 7s. 6d. for each occasion) is an advance towards the objective of a comprehensive free medical service.

(3) S. 19 authorizes the transfer to the War Expenses Account of surpluses derived from the trading activities of the Marketing Department (*e.g.*, in buying primary products at fixed prices and disposing of them overseas).

(4) Ss. 22 and 23 protect Members of Parliament from forfeiture of office by reason of the payment to them, out of public moneys, of travelling allowances and expenses, or of compensation for property compulsorily taken for war or other purposes. (The provision as to compensation is limited in its duration to the period of the war and twelve months thereafter.)

(5) S. 27 restores the superannuation rights of persons who, having resigned from the service of the Government to join any branch of His Majesty's Forces during the war, subsequently re-enter the service of the Government.

Customs and Excise Duties.—The Customs Acts Amendment Act (No. 15) increases the rates of customs duties, of sales tax, and of excise duties on beer and tobacco, and diverts the increase of revenue so provided for from the Consolidated Fund to the War Expenses Account.

Excise duty on beer is fixed on a sliding scale, the lowest rate being payable on the lightest beer (with a specific gravity of 1,036 points in relation to 1,000 points for distilled water). Brewers in the past have been free to choose between light beer and light duty or heavier beer and higher duty. But now (by emergency regulations) they are prohibited from manufacturing beer with a specific gravity in excess of 1,036 points.

The law as to sales tax was complicated by the introduction of differential rates; in this connection an anomaly was later discovered in the course of administration with reference to the tax of 20 per cent. *ad valorem* on materials which were afterwards manufactured into goods for which the appropriate sales-tax was only 10 per cent. *ad valorem*. This anomaly was corrected in the Finance Act No. 2 (1942, No. 14), which made provision for a partial refund of sales tax in each cases.

Parliament.—The duration of the 26th Parliament of New Zealand (which was extended by one year by 1941, No. 24) was further extended by the Prolongation of Parliament Act (1942, No. 7). This Act made provision for a possible extension for the period of the war and twelve months thereafter, but, in fact, Parliament was dissolved and a general election was held in September, 1943.

Medical Advertisements.—The Medical Advertisements Act (No. 11) repeals the Quackery Prevention Act, 1908 (which, because of difficulties of proof, had been ineffective to check the abuses at which it was aimed). The new Act establishes a Medical Advertisements Board which is given authority to require the manufacturer or importer of "any drug, cosmetic, dentifrice, article, substance, preparation, instrument, or apparatus" to substantiate, to the satisfaction of the Board, any claims made with respect thereto in any medical advertisement. The publication in any advertisement of an unsubstantiated claim that has been questioned by the Board is made an offence. It is also an offence under the Act for any person to offer, give, or receive payment for any testimonial published or proposed to be published in a medical advertisement.

The Act does not apply with respect to advertisements intended for circulation only to members of the medical profession or to members of other professions concerned primarily with the maintenance of the health of the human body.

The Board is authorized to make public statements relating to the contents of any medical advertisements, but formulæ disclosed to the Board are to be regarded by it as confidential.

Women Jurors.—The Women Jurors Act (No. 12) makes provision for the inclusion in jurors' lists of women between the ages of 25 and 60 years who, by notice in writing addressed to the Sheriff of a district, signify their willingness to serve as jurors.

Statutes Amendment.—The Statutes Amendment Act (No. 18) contains 35 sections, and amends 22 separate Acts. Most of the amendments relate to matters of minor importance, but a few of them may be worth mention here.

Destitute Persons.—S. 44 of the Destitute Persons Act, 1910, makes provision for the making of charging orders against property for the benefit of persons in whose favour a maintenance order has been made under that Act. By s. 5 of No. 18, the Governor-General is empowered to apply the provisions as to such charging-orders, in whole or in part, so as to bind the Crown.

Industrial Efficiency.—Under the Industrial Efficiency Act, 1936, appeals from decisions of the Bureau of Industry were made to the Minister of Industries and Commerce. (See *Jour. Comp. Leg.*, Third Series, Vol. XX, Part II, p.

114.) Provision is now made by s. 10 of 1942, No. 18, for the appointment of an independent "Appeal Authority" to hear and determine such appeals. A corresponding amendment was made by the Statutes Amendment Act, 1941, with respect to appeals from licensing authorities in respect of motor-transport services. (See comment on ss. 81–86 of that Act, on p. 156 of *Jour. Comp. Leg.*, Vol. XXV.)

Infants.—S. 15 of No. 18 authorizes the appropriate Court, in making orders of adoption to dispense in proper cases with the ordinary rule (applicable in cases of children over 12 years of age), which requires that the consent of the child proposed to be adopted shall be first obtained.

S. 16 effects a humanitarian change in the law as to the adoption of children born out of wedlock and abolishes the requirement that the fact of illegitimacy shall be recorded in an adoption order made in respect of any such child.

Law Practitioners.—There is not in New Zealand any general rule to prevent persons qualified both as barristers and solicitors from practising in both capacities.

Since 1898 there has been on the statute-book an enabling provision (modified in its details from time to time) which has permitted solicitors to be admitted as barristers without the necessity of passing any further qualifying examination. It is now proposed by the New Zealand University (the examining authority) to reduce the minimum course of study for solicitors from five to three years, and, as a consequence of the change, the law as to the admission of solicitors as barristers of the Supreme Court has been altered. The effect of the alteration is that solicitors admitted after March 31, 1943, can be admitted as barristers only after further examination. By s. 26 of 1942, No. 18, new provisions are made for the recognition of qualifications obtained overseas by persons desirous of being admitted as barristers or solicitors of the Supreme Court of New Zealand. The new provisions are more elastic than the provisions they replace, and permit of invidual cases being dealt with on their merits.

Workers' Compensation.—S. 35 of No. 18 alters the rule as to the assessment of the compensation payable to a worker who, having sight in one eye only, loses the sight of that eye by an accident to which the Workers Compensation Act applies. In such cases, compensation is to be assessed as for "the loss of both eyes."

Fair Rents.—By the Fair Rents Amendment Act (1936, No. 19), the application of the Fair Rents Act, 1936 (*Jour. Comp. Leg.*, Third Series, Vol. XX, Part II, p. 110), has been extended to cover all dwelling houses (irrespective of the date of building, or of letting, or of the amount of rent fixed by the tenancy). The duration of the Act has also been extended until the expiration of twelve months after the termination of the war.

The amending Act also makes provision with respect to:—

(1) The protection of sub-tenants on the termination of the main tenancy (whether by effluxion of time, or by an order for recovery of possession, or otherwise);

(2) Discrimination by landlords against tenants or prospective tenants with children; and

(3) The protection of "servicemen" or the wives or widows of "servicemen" (whether as landlords, or as tenants).

V. WESTERN PACIFIC

1. FIJI

[It is hoped to publish the review in the next issue.]

2. GILBERT AND ELLICE ISLANDS COLONY

[*Contributed by the* HIGH COMMISSIONER OF THE WESTERN PACIFIC.]

1940

EIGHTEEN Ordinances were passed in the year.

Employees Control (Repatriation).—No. 1 provides for the repatriation by employers of time-expired employees.

Native Passengers.—By No. 5 it is no longer necessary for native passengers to obtain permits from the Resident Commissioner or District Officer before embarking.

Quarantine.—No. 6 makes provision for sanitary control of aerial navigation in accordance with the International Convention for the Sanitary Control of Aerial Navigation of April 12, 1933.

Food.—The object of No. 8 is to secure the wholesomeness and purity of food and to fix standards for the same. It prohibits the sale of adulterated or falsely described food and of articles of food dangerous or injurious to health. Packages of food shall bear labels stating the trade name or description, the new weight or volume of the contents and the name and address of the vendor or the maker or the agent thereof. The person whose name appears on the package shall be liable for any contravention of any regulations of the Ordinance. Provision is also made for inspection, sampling and analysis of foodstuffs. Penalties of a fine of up to £50 or six months' imprisonment may be imposed. Possession of articles which contravene the Ordinance shall be prima facie evidence of contravention by the person in whose possession they are found.

Coastal Traffic repeals Coastal Traffic Ordinance, 1930.

Administration of Estates by Consular Officers.—No. 12 provides for the Administration of deceased estates by Consular Officers.

Wireless Telegraphy.—No. 13 provides a penalty of a fine of £50 or six months' imprisonment for failure to produce transcript of a telegram or message on being required to do so.

Sales Tax.—No. 17 imposes a tax of 5 per cent. on the sale value of all taxable goods sold.

Sedition.—No. 7 relates to the suppression of seditious publications and the punishment of seditious utterances. No prosecution shall be undertaken without previous written consent of the Resident Commissioner.

War Legislation.—Additional Regulations under Emergency Powers (Colonial Defence) Order in Council, 1939, have been made, including provision for further control over and also the detention of certain persons; machinery of appeal by persons aggrieved by the application of any order; prosecutions not to be instituted without consent of Resident Commissioner; penalties for publication of disturbing reports; amendments and additions to measures for control of aircraft and shipping have also been made.

Defence (Compensation) Regulations relate to payment of compensation for land or other property requisitioned or acquired. Jurisdiction in such cases to be exercised by a Judicial Commissioner only.

Trading with the Enemy (No. 10, amended by No. 11) enables the High Commissioner to proclaim any area to be regarded as Enemy Territory; and to appoint a Controller to wind up or supervise the conduct of any business carried on by enemies or persons who appear to the High Commissioner to be associated with Enemies.

1941

NINE Ordinances were passed in the year.

Consumption of Sour Toddy.—No. 1 forbids the possession or consumption of Sour Toddy (the fermented juice drawn from any coconut palm tree) without a licence from an Administrative Officer. No licence can be given to a person who has been convicted of being drunk and disorderly, of damage to property, or of an offence for which the punishment exceeds six months, or of being unlawfully in possession of Sour Toddy, within 12 months of the application for a licence.

No person under 25 may obtain a licence.

A licence may be cancelled by the Native Court.

The High Commissioner may by proclamation revoke the application of this Ordinance to any island in which, during any one year more than five per cent. of the population of the island have been convicted of the offences referred to in paragraph one above.

Native Status.—No. 2 empowers the Resident Commissioner to declare by order any person of mixed native and non-native descent to be a non-native. Persons over 18 may petition, and the declaration by the Resident Commissioner may provide that the children of the petitioner, if under 18, shall also acquire the status of a non-native.

The Resident Commissioner may on the request of any person in respect of whom an order has been made, or at his discretion, revoke any such order, by further order in writing.

Orders must be gazetted. No non-native can inherit from a deceased native any interest in native land.

Pensions.—No. 3 regulates the grant of pensions, gratuities and other allowances, to officers of the Colony Service. It repeals previous legislation, but gives officers an option as to whether they desire to accept the new provisions, or elect to remain under the old, as in some cases it may be more advantageous for officers to remain under the old Ordinance.

Native Governments.—No. 4 provides for the administration by Native Governments of Native affairs in the Colony. The Ordinance prescribes who shall be the officers of the Native Governments, and their designations, and also provides for Native Courts and Native Councils in each island. It establishes a Lands Court. Provision is also made for the procedure to be followed in Courts, and for the treatment of juvenile offenders. Certain " laws " are laid down, and the punishment for breaches of them are prescribed.

The Ordinance shall come into force from such day after its approval by the Native Governments, as shall be fixed by the High Commissioner by notice in the Gazette.

Sales Tax.—No. 5 suspends the operation of the Sales Tax Ordinance for 12 months from July 1, 1941.

British Phosphate.—No. 6 provides for the levy of a war tax at the rate of 9d. per ton on every ton of phosphate exported from the Colony during the year ending June 30, 1942.

Income Tax.—No. 7 imposes, for the first time, a tax on incomes in the Colony. It contains the clauses usually found in Colonial Income Tax Legislation. The normal tax is 1s. 3d. in the £ on all income up to £2,500. On all income exceeding £2,500 and not exceeding £3,000 the rate is 2s. 6d.; on all incomes exceeding £3,000 and not exceeding £5,000 the rate is 3s. 9d., and on incomes exceeding £5,000 the rate is 5s. in the £.

The statutory exemptions are £150 in the case of unmarried persons or persons without dependants, and £400 in the case of other persons.

Deductions are allowed as follows: £50 for each dependant child, plus a further £25 for every child under 18 educated abroad; insurance premiums paid,

to the extent of £50; and certain allowances for depreciation specified by order.

No exemptions are allowed in respect of tax payable by absentees, and they are taxed as follows: (1) At 1s. 3d. in the £ up to £500. (2) At 2s. 6d. in the £ on income exceeding £500 but not exceeding £1,000. (3) At 3s. 9d. in the £ on income exceeding £1,000 but not exceeding £2,000. (4) At 5s. in the £ on income exceeding £2,000. Companies pay tax at the rate of 7½ per cent. on income earned.

Trading with the Enemy.—No. 8 amends further the Principal Ordinance No. 6 of 1939 and provides that a person shall not be deemed to have traded with any enemy, if he has received payment from an enemy of a sum of money in respect of a transaction under which all obligations on the part of the person receiving payment had been performed, when payment was received, and at a time when the person from whom payment was received, was not an enemy.

" A court having jurisdiction in enemy territory " is substituted for a " court of a State at war with His Majesty " in s. 7 of the Principal Ordinance.

Ocean Island Defence Force.—No. 9 amends the Ocean Island Defence Force Ordinance No. 10 of 1917. The Ordinance amends by making more specific provisions in the matter of arms and equipment, the calling out of the force for active service, the appointment of officers, and the registration of persons for compulsory service.

The rule-making section is extended, giving power to make rules governing pay, pensions and gratuities. Provision is also made whereby members of the Armed Constabulary called out for service shall enjoy pension rights as though they were members of the force.

War Legislation.—In addition to the foregoing Ordinances Defence (Finance) Regulations have been enacted (and have been once amended) providing restrictions on dealing in securities, on the purchase, sale and loans of foreign currency and gold; on the import of banknotes, and on the export of gold, notes and securities, and provisions have also been enacted for the acquisition of gold coins and bullion, and foreign currency. The legislation is similar to that enacted in other territories. Numerous orders have been made under the Regulations.

Defence (General) Regulations have also been amended, in relation to protected areas, the taking control of undertakings, assisting offenders, and removing limits on fines which may be inflicted on corporations.

1942

SEVEN Ordinances were passed in the year.

Fanning Island Defence Force.—No. 1 amends the Fanning Island Defence Ordinance No. 5 of 1918 by making more specific provisions in the matter of arms and equipment, the calling out of the force for active service, the appointment of officers, and the registration of persons for compulsory service.

The rule-making section is extended, giving power to make rules governing pay, pensions and gratuities. Provision is also made whereby members of the Armed Constabulary called out for service shall enjoy pension rights as though they were members of the force.

Constabulary.—No. 2 amends the Constabulary Ordinance, to provide that the Force shall be a military force, and may be employed as such in the event of war or other emergency. The force shall be so employed after proclamation accordingly by the High Commissioner.

Pensions.—Nos. 3, 4 and 5 make specific provisions regarding pensions ultimately payable to three Colony officers.

Religious Bodies.—No. 6 regulates the registration of religious bodies and their representation by trustees for the purpose of suits and for the leasing of land.

British Phosphate.—No. 7 suspends temporarily, the payment by the British

Phosphate Commissioners, of the annual taxation for which they are liable under the Principal Ordinance No. 7 of 1938, and the additional war tax, for which they are liable under the War Tax Ordinance, No. 6 of 1941 (*supra p.* 76).

War Legislation.—In addition to above ordinances. Defence (Finance) Regulations have been enacted authorizing the High Commissioner to direct how securities shall be sold and how foreign currency representing the proceeds of sale shall be disposed of. The definition of "owner" in the Principal Regulations is extended to include, where securities are held on trust, any trustee or person entitled to enforce the performance of the trust.

Defence (Public Officers) Regulations prescribe that public officers must remain at their posts, otherwise disciplinary action will follow.

Defence (Amendment) Powers of High Commissioner Regulations provide that the High Commissioner may make any orders or rules under Defence (General) Regulations in like manner as any person authorized by the Regulations may make rules and orders.

3. BRITISH SOLOMON ISLANDS PROTECTORATE

[*Contributed by the* HIGH COMMISSIONER OF THE WESTERN PACIFIC.]

1940

FIFTEEN King's Regulations were sanctioned in the year.

Trocas Shell Fishing.—No. 1 provides for the licensing of all Non-native owned vessels engaged in Trocas shell fishing and provides a penalty of a fine not exceeding £100 or imprisonment not exceeding 12 months.

Sedition.—No. 2 relates to the suppression of seditious publications a nd he punishment of seditious utterances. A prosecution under this Regulation shall not be undertaken without previous consent in writing of the Legal Adviser.

Quarantine.—No. 7 makes provision for sanitary control of Aerial Navigation in accordance with the International Convention for the Sanitary Control of Aerial Navigation of April 12, 1933.

Liquor Licence.—No. 8 lays down the hours at which liquor shall be sold.

Administration of Estates by Consular Officers.—No. 10 provides for the administration of deceased estates by Consular Officers.

Petroleum.—No. 12 defines various kinds of petroleum and provides for inspection and taking of samples by European Police Officer or other duly authorized persons.

Stamp Duties.—No. 3, amended by No. 14, imposes the payment of stamp duty on the following classes of documents: Memoranda of Agreement, Bills of Lading, Bills of Exchange, Bills of Sale, Promissory Notes, Leases, Mortgages, Bonds, Debentures and Covenants, Powers of Attorney, Receipts on payment of money amounts £2 and upwards. Documents not duly stamped shall not be admissible in Civil Pleadings. No document required to be registered shall be registered unless duly stamped.

Mines.—No. 15 repeals the Mining Regulation, 1927, and covers the whole field of Mining Operations within the Protectorate. A Mining Board to supervise Mining Operations is to be set up at Tulagi with powers to grant Prospector's Rights, Prospecting Licences and Mining Leases. Provision is made for the declaration of Mining Areas, the payment of rents and royalties. Special provisions govern mining operations on native land. A register of documents relating to the disposition of Mining tenements is to be kept.

War Legislation.—Additional Regulations under Emergency Powers (Colonial Defence) Order in Council, 1939, have been made to provide for further control and detention of certain persons; setting up of machinery of appeal for persons aggrieved by application of any order; prosecutions to be instituted only with consent of Resident Commissioner; penalties for publication of disturbing

reports. Amendments and additions to measures for control of aircraft and shipping have also been made.

Defence (Compensation) Regulation No. 13 relating to proceeding before a Judicial Commissioner for the payment of Compensation for land or other property requisitioned or otherwise acquired. Trading with the Enemy—enables High Commissioner to proclaim any area to be Enemy Territory.

1941

FIFTEEN Regulations were made in the year.

Passenger Vessels.—No. 1 requires that all vessels other than vessels used within a harbour shall be licensed. No licence may be issued unless the vessel is seaworthy.

Penalties are provided for carrying passengers in unlicensed vessels, and for carrying passengers in excess of the number allowed by the licence.

Preservation of Order.—No. 2 amends certain sections of the Preservation of Order Regulation, 1930. The Regulation amends the section of the Principal Regulation, dealing with larceny. Special provision is made governing the theft of pigs and goats, where the value of the animal does not exceed £20, and provision is also made for increased punishment for a second offence, and for compensation to the injured owner.

The Regulation also re-enacts s. 8 of the Principal Regulation, with slight modification.

Trading with the Enemy.—No. 3 amends further the Trading with the Enemy Regulation, 1939, and makes provision for restricting or prohibiting the carrying on of any business in the Protectorate, which is carried on by or on behalf of, or under the direction of enemies or enemy subjects, or by persons associated with enemies, and the High Commissioner may also make an order requiring any such business to be wound up, and a Controller may be appointed for the purposes of the winding up.

If an order for winding up has been made, in respect of such a business, no bankruptcy petition, or a petition for sequestration may be presented without the consent of the legal adviser.

Provision is also made governing the rights, powers, duties and liabilities of custodians.

Dangerous Drugs.—No. 4 regulates the importation, exportation, manufacture, cultivation, storage, sale and use of opium and other dangerous drugs.

Certain dangerous drugs must be kept in special stores and may only be withdrawn from store on the authority of the Senior Medical Officer.

Exportation and importation of dangerous drugs is only permissible under permit.

Provisions are also made to control drugs in transit through the Protectorate, and drugs in transit may only be removed in the Protectorate under licence from the Senior Medical Officer.

Powers of seizure and search are granted in respect of drugs kept, sold, landed or conveyed in contravention of the regulation, and certain powers of arrest without warrant are given to Police and Customs Officers, if grounds exist for believing that an offender, or suspected offender, against the Regulation will abscond.

Pharmacy and Poisons.—No. 5 provides for the registration of Pharmacists and controls the practice of pharmacy and the sale and distribution of drugs and poisons.

The Regulation provides for the appointment of a Pharmacy Board, of which the Senior Medical Officer is the Chairman. The Board shall register pharmicists. Persons who have passed the prescribed final examinations in pharmacy in Great Britain, Northern Ireland, Canada, New Zealand, South

Africa, Eire or in any of the six States of the Commonwealth of Australia, are eligible for registration.

The Regulation also prescribes how the business of pharmacists shall be conducted. Automatic machines for vending medicines are prohibited, and certain advertisements relating to medicines are prohibited.

Licensed storekeepers may sell certain medicines under licence, but poisons may only be sold by registered pharmacists.

Extensive rule-making powers are given to the Board.

Mining.—No. 6 is a short amendment of the Mining Regulation, 1940, and provides that, if a prospecting licence in respect of an area of one thousand acres be granted the licence shall continue in force in respect of the residual area, even if a mining lease has been granted in respect of part of the area comprised in the prospecting licence.

Under the Original Regulation the licence was cancelled on the grant of such mining lease, but the holder of the prospecting lease had the first right to the issue of a new prospecting licence in respect of the remainder of the area. This provision is still applicable to prospecting licences in respect of areas of less than 1,000 acres.

Native Passes.—No. 7 repeals existing Regulations relating to native passes. No legislation in lieu has been substituted.

Residential Tax.—No. 8 increases the tax from £1 to £2, and the penalty for non-payment, from 10s. to £1.

Registration of Business Names.—No. 9 provides for the registration of firms and persons carrying on business under business names. Registration is effected by sending particulars to the Treasurer. The particulars required are the business name, the place of business, the nature of the business, and the Christian and surname of every person owning the business to be registered. Penalties are provided for false statements and for failure to register.

All changes in a firm are to be registered.

Dogs.—No. 10 amends the Dogs Regulation, 1923, and gives the Resident Commissioner power in certain cases to waive fees on registration of dogs by aboriginal natives.

Aliens.—No. 11 regulates the holding of land by aliens in the Protectorate. No unlicensed alien—that is, no alien to whom the High Commissioner has not granted a licence for the purpose—may hold land or a mortgage on land in the Protectorate. This does not apply to land or mortgages acquired by succession or to land held by aliens prior to the enactment of this legislation.

The Regulation also applies to companies under alien control—that is to say, if one of the directors is an alien, or if more than one-third of the capital is alien, or if more than one-third of the dividends are payable to aliens.

Income Tax.—No. 12 imposes, for the first time, a tax on incomes in the Protectorate. It contains the clauses usually found in Colonial Income Tax Legislation.

The normal tax is 1s. 3d. in the £ on all income up to £2,500. On all income exceeding £2,500 and not exceeding £3,000 the rate is 2s. 6d.; on all income exceeding £3,000 and not exceeding £5,000 the rate is 3s. 9d., and on incomes exceeding £5,000 the rate is 5s. in the £.

The statutory exemptions are £150 in the case of unmarried persons or persons without dependants, and £400 in the case of other persons

Deductions are allowed as follows: £50 for each dependant child, plus a further £25 for every child under 18 educated abroad; insurance premiums paid, to the extent of £50; and certain allowances for depreciation specified by order.

No exemptions are allowed in respect of tax payable by absentees, and they are taxed as follows: (1) At 1s. 3d. in the £ up to £500. (2) At 2s. 6d. in the £ on income exceeding £500 but not exceeding £1,000. (3) At 3s. 9d. in the £

on income exceeding £1,000 but not exceeding £2,000. (4) At 5s. in the £ on income exceeding £2,000.

Companies pay tax at the rate of 7½% on income earned.

Arms and Ammunition.—No. 13 consolidates all previous legislation relating to arms and ammunition and controls their possession, sale, import and export.

Possession of arms without a licence is prohibited, and special provisions are made in the case of natives, whose possession of arms is limited to a shot-gun.

Permits are necessary for the purchase of ammunition. In the case of a native, the quantity is limited to twenty-five cartridges a month.

Dealers must be licensed, and must keep registers of purchases and sales of arms and ammunition.

Permits are required to import and export arms, and in certain circumstances the High Commissioner may prohibit importation and exportation.

Wide powers of search are given to Police Officers.

Liquor.—No. 14 consolidates all previous legislation relating to liquor. It provides for the issue of publican's, retail, packet and occasional licences, and fixes the hours in which liquor may be sold by publicans and retailers.

Applications for licences shall be made to, and heard by, District Officers.

Special provisions are made prohibiting the sale and supply of liquor to natives, and the possession or consumption of liquor by natives. Exemption certificates may in certain cases be granted to natives, entitling them to possess and drink liquor.

The Regulation also provides for the registration and management of clubs, and also prohibits the private distillation of liquor.

Trading with the Enemy.—No. 15 amends further the Principal Regulation, No. 11 of 1939, and provides that a person shall not be deemed to have traded with any enemy, if he has received payment from an enemy of a sum of money in respect of a transaction under which all obligation on the part of the person receiving payment had been performed, when payment was received, and at a time when the person from whom payment was received, was not an enemy.

A " court having jurisdiction in enemy territory " is substituted for a " court of a State at war with His Majesty " in s. 7 of the Principal Regulations.

War Legislation.—In addition to the foregoing King's Regulations, Defence (Finance) Regulations have been enacted (and have been once amended) providing restrictions on dealing in securities, on the purchase, sale and loans of foreign currency and gold; on the import of banknotes, and on the export of gold, notes and securities, and provisions have also been enacted for the acquisition of gold coin and bullion; and foreign currency. The legislation is similar to that enacted in other territories. Numerous orders have been made under the Regulations.

Defence (General) Regulations have also been amended in relation to protected areas, the taking control of undertakings, assisting offenders, and removing limits or fines which may be inflicted on corporations.

1942

Five Regulations were sanctioned in the year.

Constabulary.—No. 1 amends the Constabulary Regulation, to provide that the force shall be a military force, and may be employed as such in the event of war or other emergency. The force shall be so employed after proclamation accordingly by the High Commissioner.

Pensions.—No. 2 regulates the grant of pensions, gratuities and other allowances, to officers of the Protectorate Service. It repeals previous legislation, but gives officers an option as to whether they desire to accept the new provisions, or elect to remain under the old, as, in some cases, it may be more advantageous for officers to remain under the old Regulation.

Courts (Emergency Powers).—No. 3. This is a war-time measure giving the Courts certain powers in relation to remedies in respect of the non-payment of money and the non-performance of obligations (including powers in relation to winding up and bankruptcy proceedings). Leave of the Court is necessary before proceeding to execution on, or otherwise to the enforcement of, any judgment or order of the Court (whether given before or after the coming into force of this Regulation) for the payment or recovery of money.

This does not, however, apply, in the case of: (1) damages for tort; (2) recovery of debt under a contract made after the commencement of this Regulation; (3) money recoverable in respect of costs where the only money recoverable is costs; (4) affiliation orders; (5) any order made in criminal proceedings.

Leave of the Court is also required for the recovery of land in default of payment of rent, or for the recovery of possession of land by a mortgagee.

The Court may refuse leave where, in the opinion of the Court, inability to pay or to fulfil obligations, is due to circumstances attributed to any war in which His Majesty may be engaged.

Lunatic Asylum.—No. 4 amends the Lunatic Asylum Regulation, 1928, and provides that lunatics detained in the Public Lunatic Asylum may be transferred to, and detained in, any other place which the Resident Commissioner may specify by order.

Defence Force.—No. 5 amends the Defence Force Regulation, 1939, by making more specific provisions similar to those for the Fanning Island (*supra* p. 77) and Ocean Islands (*supra* p. 77) Defence Forces.

War Legislation.—In addition to King's Regulations, Defence (Finance) Regulations, have been enacted authorizing the High Commissioner to direct how securities shall be sold, and how foreign currency representing the proceeds by sale shall be disposed of. The definition of "owner" in the Principal Regulations is extended to include, where securities are held on trust, any trustee or person entitled to enforce the performance of the trust.

Defence (General) Regulations of 1939 were repealed and replaced by new Defence (General) Regulations, bringing all such legislation up to date.

Defence (Public Officers) Regulation prescribes that public officers must remain at their posts, otherwise disciplinary action will follow.

The Military Units Regulations authorize the Resident Commissioner to establish military units.

SPECIAL REGULATIONS have been made by the High Commissioner under the British Solomon Islands (Temporary Provisions) Order in Council, 1942, as follows:—

Special Courts (Establishment).—No. 1 provides for the establishment and constitution of special Courts, and prescribes their jurisdiction and powers. Deputy Commissioners for the Western Pacific may be appointed Special Commissioners to hold Special Courts, and have the same jurisdiction in criminal matters as Judicial Commissioners have under the Pacific Order in Council, 1893. Committal proceedings are dispensed with. Sentences of death must be confirmed by the Resident Commissioner.

Native Courts.—No. 2 provides for the establishment, constitution, jurisdiction and powers of Native Courts. Courts are established by warrant, under the hand of the Resident Commissioner, and shall be constituted in accordance with native custom. The civil and criminal jurisdiction conferred is limited, and is set out in the warrant. The Court only exercises jurisdiction in matters in which natives alone are concerned, and administers the native law and Custom of the area in which it is established, so far as such law and custom have not been modified by Regulation.

The Resident Commissioner may also authorize a Native Court to enforce any law specified in orders made by him.

Courts may award imprisonment or fine, and may direct that part of a fine

shall be used in compensating the injured party. A form of extra-mural imprisonment is provided where imprisonment awarded is one month or less.

The Resident Commissioner has access to the Courts and their records at all times.

An appeal from Native Courts lies to District Officers.

Laws (Suspension).—No. 3 suspends the operation of certain King's Regulations, of certain articles of the Pacific Order in Council, 1893, and of the Criminal Procedure (Review of Courts) Rules, 1934. It also modifies certain provisions of the Order in Council, 1893.

Execution of Criminals.—No. 4 prescribes the procedure to be followed on confirmation of death sentences by the Resident Commissioner. Telegrams conveying the Resident Commissioner's confirmation must be repeated for verification.

After the execution of the prisoner, an enquiry must be held and a report sent to the Resident Commissioner who, in turn, forwards the report to the High Commissioner.

These four Special Regulations have been enacted to meet special situations which have arisen as a result of war conditions in the Protectorate.

4. KINGDOM OF TONGA

[*Contributed by* A. L. Armstrong, Esq., O.B.E.]

Twenty-six Acts were passed.

Trading with the Enemy.—No. 3 makes provision for the prevention of trading with the enemy and the control and winding up of businesses carried on in the Kingdom by, or on behalf of, or under the direction of, persons all or any of whom are enemies or enemy subjects or appear to the Premier to be associated with enemies. The Premier is empowered to appoint a Custodian of Enemy Property, and may by order vest in such Custodian prescribed enemy property; the Premier may further confer and impose on the Custodian various rights, powers, duties and liabilities. Under s. 12 the making of false or reckless statements, or wilful obstruction, may in certain circumstances be an offence under the Act.

This Act is based on the Fiji Trading with the Enemy Act.

Evacuation of Foreigners.—No. 6 empowers the Queen in Council to order the evacuation, or partial evacuation, of foreigners from the Kingdom. For the purposes of the Act "foreigners" are defined as persons not of Tongan nationality or members of any Polynesian or Melanesian race. The Treasurer may advance funds for the carrying out of any order made under the Act.

Criminal Offences.—No. 11 amends the Criminal Offences Act, 1926. Trading in prostitution by a male, or soliciting for immoral purposes are made criminal offences. The maximum penalties are not excessive. A male convicted twice or more for living wholly or in part on the earnings of prostitution may be flogged; this is in conformity with legislation in different parts of the British Empire.

Defence Force.—No. 12 amends the Defence Force Act, 1941, which previously contained no provision for the disciplining of members of the Force when on actual service. By reason of the amendment the Army Act will now apply *mutatis mutandis* to the Tonga Defence Force when on actual service. It is expressly provided that all sentences of Courts-Martial must be confirmed by Her Majesty in Council and Her Majesty in Council may make such other modifications to the Army Act as Her Majesty in Council may think fit.

Customs Duties.—No. 13 amends the Customs Act, 1938, by exempting Purchase or Sales Tax payable in any part of the British Empire from Customs

Duty. Such legislation is in accordance with Customs Legislation throughout the British Empire.

Coinage.—No. 15 empowers Her Majesty in Council to declare by Order any foreign coinage to be legal tender in the Kingdom; furthermore, Her Majesty in Council may state the rate of exchange of such foreign coinage as against Tongan currency. The purpose of this legislation is to provide against a possible coinage shortage in the Kingdom at any time.

Treasury Notes.—No. 16 amends the Treasury Notes Act, 1935. The purpose of the amending Act is the same, in relation to Treasury Notes, as Act No. 15 given above.

Manufacture of Intoxicating Liquor.—No. 18 is to prevent the manufacture of intoxicating liquor within the Kingdom. The Act applies to Tongans and Europeans alike, and empowers the police, with search warrant, to enter upon suspected premises.

Magistrates.—No. 19 amends the Magistrates' Act, 1919, by increasing the jurisdiction of the Chief Police Magistrate. Before the amendment to the Principal Act was enacted no Magistrate could hear criminal cases where the maximum sentence exceeded £50 or two years' imprisonment; in consequence many trivial matters had to be tried by the Chief Justice sitting with jury. This is no longer practicable, since there is no resident Chief Justice in Tonga. It is expected that a Law Officer from Fiji will visit Tonga approximately twice a year to sit as Chief Justice. He will hear all indictable offences where the accused has elected to trial by the Chief Justice, and also all cases where the Chief Police Magistrate is of the opinion from the minutes of the Preliminary Examination that in the event of the accused being found guilty two years' imprisonment or a fine of £300 will not adequately meet the case. Thus the accused's right to trial by jury in indictable cases is preserved, but undue delay may, at the will of the accused, be avoided in the hearing of less serious charges.

For the same reasons as those given above, the Chief Police Magistrate may hear civil actions where the amount claimed, whether as debt, balance of account, damages or value, does not exceed £300.

Prisons.—No. 20 amends the Prisons Act, 1923, and makes it no longer necessary for a person charged with escape to be tried by the Supreme Court and a jury. Escape in Tonga is often of a trivial nature, and since there is no longer a resident Chief Justice, it is considered just that the accused be offered the opportunity of a summary trial.

Criminal Procedure.—No. 21 amends the Criminal Procedure Act, 1927. A previous amendment to the latter (Act No. 6 of 1936), provided that the Chief Justice should also be Chief Police Magistrate under the Act. This is no longer possible since there is no resident Chief Justice.

Supreme Court.—No. 23 amends the Supreme Court Act, 1903, in order that some indictable offences may be heard by the Chief Police Magistrate, as explained in No. 19. It also provides for the renewal of lawyers' licences by the Registrar, there being no longer a resident Chief Justice.

Criminal Offences.—No. 24 makes provision for the increased jurisdiction of the Chief Police Magistrate as explained in No. 19.

Constitution of Tonga.—No. 25 amends the Constitution of Tonga. Clauses 11, 88 and 95 are amended so that, subject to certain conditions, the accused in indictable offences may elect to be tried summarily as explained in No. 19. Clauses 50 and 51, in order that the Chief Justice and the Treasurer shall not, *ex-officio*, be a Privy Councillor and Cabinet Minister respectively. It is expected that in future all Ministers will be Tongans, who will be advised by their European departmental heads. The reason for the amendment to Clause 95 is the correction of an obvious oversight in the drafting of the Constitution; throughout the laws a maximum sentence of two years is accompanied with an alternative maximum fine of £50.

Government.—No. 26 amends the Government Act, 1903, by omitting the Chief Justice and Auditor-General as *ex-officio* Cabinet Ministers. The reason for this is explained in No. 25. The post of Auditor-General has been abolished and thus s. 21 of the principal Act is repealed.

5. NEW HEBRIDES

[*Contributed by the* RESIDENT COMMISSIONER.]

THERE were sixteen joint regulations.

Defence Forces.—No. 1 implements the agreement between His Majesty's Government in the United Kingdom and General de Gaulle to constitute New Hebrides Condominium Defence Forces.

Police.—No. 3 is to prevent disaffection and disorder among natives and provide for confining disaffected or dangerous natives to particular localities in the New Hebrides.

Meat.—No. 6 controls the sale and supply of meat.

Civil Defence.—No. 8 is to secure the evacuation and control of the civil population in the event of invasion or attempted invasion.

No. 11 is to control artificial lighting and passive air raid defence in the New Hebrides.

Malaria.—No. 10 is to facilitate Malaria control on plantation land.

Civil Service.—No. 15 is to provide for refunds in respect of the cost of medical treatment of officials of the Condominium Service.

VI. SOUTH AFRICA

1. UNION OF SOUTH AFRICA

[It is hoped to publish the review in the next issue.]

2. CAPE PROVINCE

[*Contributed by* A. J. PIENAAR, B.A., LL.B., K.C.]

1941

Local Government.—As usual the laws relating to the different bodies constituted to administer local government were amended. In respect of Local Boards and Village Management Boards, Ordinances Nos. 7 and 10 respectively empower those bodies to adopt any or all of the Standard Regulations published by the Administrator under the provisions of s. 201 of the Municipal Ordinance (No. 10 of 1912). This is an important extension of the powers of those bodies and a remarkable example of legislation by reference. The reason, no doubt, is that the Legislature has wearied of granting annual piecemeal instalments of such powers.

In regard to Municipalities, No. 4 gives to the Administrator autocratic power to close quarries in a Municipal area, if he thinks fit to do so, and the Council itself has failed to do so. The Council is liable to pay compensation, and a quarry once closed cannot be reopened.

Divisional Councils—*i.e.*, the bodies functioning in rural areas—are granted by No. 13 similar power to adopt Standard Regulations as that granted to the smaller bodies by Nos. 7 and 10 already mentioned.

S. 4 of No. 13 also enables a Council to take road-making material from uncultivated lands. S. 6 forbids the erection of gates in fences across proclaimed roads, without a Council's consent, which shall not be withheld if the owner of the land is willing to construct a grid-gate (*i.e.*, a motor by-pass) in the

fence. S. 7 gives a Council power to appoint street keepers and traffic constables with powers similar to such officials in urban areas.

Inland Fisheries.—Under the Act of Union fish and game preservation was assigned to the provincial administration (see s. 85 (x)). In 1940 the Union Parliament by Act No. 10 repealed this provision in regard to sea fishing, leaving the provinces power only in regard to inland fisheries. The two Coastal provinces of Natal and the Cape were affected by this legislation, and consequently the repeal of the original Ordinance (No. 30 of 1920) and its subsequent amendments which deal with both sea and river fishing became necessary. No. 15 re-enacts with certain minor amendments of substance and many improvements in form, those provisions which deal with fishing in inland waters. It will be neither necessary nor possible to deal fully with its contents. Of interest may be noted: " fish " is defined as including aquatic fauna generally (excepting mammals, birds and lizards) and the ova, brood, spawn or young of fish; " inland waters " means all waters which do not permanently or at any time of the year form part of the sea. The Ordinance does not apply to private streams, but the Administrator may by Proclamation apply it to such waters. Other very wide powers are given to the Administrator, which include the administration of the Ordinance, the issue of permits, the investigation of aquatic fauna and experimental work in connection therewith, the importation and propagation of protected fish (much has already been done in this connection by the importation, breeding and distribution of trout and large-mouth black bass). The supervision of fishing practices and the disposal of fish and the control of aquatic growths. Very wide powers to make regulations are also given. These do not differ materially from those given under the original Ordinance, and provision is made for the continued validity of the very comprehensive set of regulations at present in force. Angling societies may receive official recognition, and the Administrator may prescribe the powers which their committees shall have in carrying out the provisions of the Ordinance.

School Board Service (No. 18), and **Hospital Board Service** (No. 19).—Hitherto the officials and other servants of school boards and hospital boards were such only under the board to which they had been appointed. All appointments were subject to the approval of the Administrator. The system had certain disadvantages—*e.g.*, if a person who was secretary (the highest post obtainable) wished to obtain promotion to a similar post of a larger board, it happened that that board would prefer a local man. If the Administrator refused approval a deadlock would occur. Ordinance No. 11 of 1920 and its four amending Ordinances applied to both sets of officials. These two Ordinances now establish a common service for the province in respect of the officials, etc., of each kind of board, thereby enabling transfers and promotions to be made from one local area to another. The provisions of the Ordinances are very similar, and consequently there is much repetition, but the differences between the two services are such that they could not be dealt with conveniently in one measure, *e.g.*, the School Board Service is divided into three divisions, while the Hospital Board has only two, the grading of Boards and of the posts in them and their remuneration also differ from each other. Each Ordinance sets out the rates of the emoluments in respect of different posts of different grades of Boards. These have been improved, but protection is given to any person who is transferred to a post in a lower grade. The provisions of the Union Public Service Act, 1933 (ss. 18 and 21, as substituted by ss. 7 and 10 of Act 36 of 1936) in respect of discipline are taken over almost verbatim. It should be noted that these Ordinances apply only in respect of the administration of boards. They do not affect teachers, doctors or nurses. A somewhat unusual feature in draughtsmanship is the fact that each Ordinance (they were promulgated on the same day) repeals the same set of existing legislation. The draughtsman evidently desired to leave no doubt as to the death of the old Ordinances.

The remaining Ordinances of the year include the annual amendments to the Education Ordinance (No. 5 of 1921) to the Motor Vehicle Ordinance, 1938, and one again postponing as a War measure the holding of municipal elections.

1942

THIS year produced only a small volume of legislation, of which only a very little can be considered as of more than local interest. Sixteen Ordinances were passed, of which two were the annual finance measures, one was a private Ordinance, another was a war measure, viz., a further postponement of municipal elections, and the others were all amendment Ordinances.

Local Government.—No. 11 is the annual amendment of the Municipal Ordinance (No. 10 of 1912). Ss. 1–4 deal with the municipal elections and the disqualification of voters and candidates. S. 7 enables a Council to combine with other local authorities in a common scheme for the appointment of street keepers and traffic constables. S. 8 enables a Council to enter into agreements with other local authorities and with the Union Government for the use of its fire brigade and for the supply of water for combating fires. S. 12 exempts air-raid shelters from rates, and s. 13 provides that surplus revenue derived from municipal slaughter-houses shall be used for the reduction of fees and charges and not for other purposes, such as the relief of rates. The purpose obviously is to keep down the cost of meat.

No. 14 is the amending Ordinance to the laws relating to Divisional Councils. S. 1 replaces s. 112 of the principal Ordinance (13 of 1917) and makes fresh provisions forbidding officers from taking any reward or consideration, other than their salaries, for their services. S. 4 replaces s. 137 of the principal Ordinance, which enumerates the classes of vehicles which are exempt from payment of the wheel tax. S. 6 makes new provision for the sub-division of land in purely rural areas, and under s. 7 air-raid shelters are exempted from the payment of rates as long as the war lasts.

Education.—The main features of the usual ordinance amending No. 5 of 1921 are that provision is made for training colleges for coloured students and for the payment by the administration of the full salaries of all teachers employed in teaching native and coloured pupils in secondary schools which are not under a school board. Hitherto only grants in aid were paid in respect of such schools.

3. NATAL

1941

TWENTY-FOUR Ordinances were passed in the year, and consist mainly of small amendments, as well as some local Ordinances.

Education.—No. 3 provides schools for children "who by reason of certain physical, mental or behaviour aberrations or disabilities are unable to benefit sufficiently from instruction and training given in ordinary schools."

No. 4 preserves the pension rights of teachers on active service. No. 6 provides free or partly free educational facilities for children of fathers disabled by or killed on military service.

Public Health.—By No. 20 a Commission is established for the management, regulation and control of matters affecting the public health in areas which may from time to time be thought within the operation of the Ordinance. Its object is to deal with backward areas and those in which the local authorities have failed to exercise adequately their powers.

Local Authorities.—Elections due in 1942 are suspended by No. 21.

1942

TWENTY-THREE Ordinances, including a number effecting minor amendments, were passed in the year.

Dogs.—The law relating to dogs is consolidated with some amendments in No. 10.

Highways.—The law relating to the construction, reconstruction, repair and maintenance of high roads throughout the Province under the control of the Administrator is consolidated and amended by No. 11.

Public Health.—Additional powers are conferred by No. 12 upon the Public Health Commission (*supra* p. 87), established in 1941, including such matters as the supervision of pounds and markets.

National Parks.—Provision is made by No. 14 for the establishment of national parks with the object of preserving wild animal life and wild vegetation and objects of historical or of geological, archæological or other scientific interest.

Local Authorities.—The elections for members of town councils and other local authorities are authorized by No. 16 in modification of Ordinance No. 21 of 1941 (*supra* p. 87).

Licences.—The law relating to the grant of licence by local authorities is consolidated and amended in No. 19, which wholly repeals 15 Ordinances and affects a number more dating back to the year 1897.

Local Government.—The whole of the local government is consolidated and amended in No. 21, which incorporates thirty previous Ordinances and a number of other provisions from the municipal Corporation Law of 1872 and later Ordinances.

Education.—The whole of the law relating to education is consolidated in No. 23 with amendments. It contains the measures passed since provision was made for elementary education in 1877.

4. ORANGE FREE STATE

[*Contributed by* F. W. A. GRAY, ESQ., B.A., LL.B.]

EIGHT Ordinances were passed in the Provincial Council during the year. Nos. 1 and 3 were Appropriation Ordinances. No. 4 was an Education Fund Ordinance, and the remaining five were amending Ordinances. Of the amending Ordinances three only, the Local Government Amendment Ordinances, the Road Traffic Ordinance Amendment Ordinance and the Tax on Persons and Companies Amendment Ordinance present features for notice. The remaining amending Ordinances are the Education Laws Consolidating Ordinance Amendment Ordinance (No. 6) and the Motor Vehicle Ordinance Amendment Ordinance (No. 8).

Education.—The main object of the Education Fund Ordinance (No. 4) is to empower the Administrator of the Orange Free State, in his discretion, to award out of the Fund bursaries to needy and to deserving pupils and students of the Orange Free State, bursaries being expressed to include (*a*) awards which shall not be repayable, and (*b*) loans repayable with or without interest in such instalments, within such period and subject to such conditions as the Administrator may determine.

Local Government.—The Local Government Amendment Ordinance (No. 7) presents two interesting features. There is, firstly, an innovation in the shape of a direct and speedy way of supplementing the coffers of a principality or of a Village Board of Management to prevent an attachment of any of its property when it is unable to pay its debts. And the other new feature of the Ordinance is the provision making failure by a Councillor or any officer in the employ of a

Municipal Council to hand over to an auditor the books, accounts or documents of the Municipality, a criminal offence. As to the first matter the Ordinance empowers the Administrator, if he is satisfied that a Municipal Council or Board of Village Management is not in a position to pay its debts and he has reason to believe that a creditor may take action with a view to the attachment of any property belonging to the Council or Board concerned, to appoint for such time and on such conditions as he may think desirable a person, termed a Personal Representative, to investigate the financial position and to control the revenue and expenditure of such Council or Board; and if, after communication with the Town Clerk or Councillors in the case of a Municipality, or the Secretary or Members in the case of a Village Management Board, the Personal Representative is satisfied that the debts cannot be paid out of current revenue, he is authorized by the Ordinance to levy on all rateable property in the area of such Municipality or Village Board of Management a special rate payable for such period and at such time as he may consider necessary, the special rate to be collected under the supervision of the Personal Representative and the debts to be paid from moneys so collected, all Court proceedings against a Council or Board for the recovery of a debt being stayed by the filing in Court of a certificate signed by a Provincial Secretary to the effect that a Personal Representative has been appointed. The creation of the criminal offence mentioned above, the other matter for note in the Ordinance under review, was necessitated by a decision of the Orange Free State Supreme Court in 1941, which set aside the conviction before a Magistrate of the Mayor and Councillors of a certain Municipality for a contravention of s. 108 (i) with s. 253 of the Ordinance 15 of 1935 (the Local Government Consolidation Ordinance) in that the Municipality failed to produce and lay before an auditor its books, accounts and papers. The Court held that the general penalty clause (s. 253) making a contravention of the provisions of the Ordinance a criminal offence, where no other penalty was expressly provided by the Ordinance, did not impose a criminal sanction on a Municipality in respect of a failure of the kind charged. The Ordinance 7, in an amendment of the previously existing s. 108, expressly declares the failure in question to be a criminal offence and provides for the imposition of a fine not exceeding £10 on a conviction for the offence thus created.

Roads.—The Road Traffic Ordinance Amendment Ordinance (No. 2) amends the Road Traffic Ordinance No. 10 of 1933 by providing that in lieu of the lights which are required by the previous Ordinance to be carried or affixed to a team of four animals uncontrolled by reins, whether drawing a vehicle or not, two white reflectors may be affixed to the front yoke of such team, and if such team is drawing a vehicle, a red reflector may be affixed to the rear of such vehicle. But the amending Ordinance requires that if such reflectors are affixed, then when the lights from the electric head-lamps of a motor vehicle are thrown upon them from a distance of at least 50 yards, the light reflected from them must be visible to the driver of such motor vehicle.

Taxes.—The Tax on Persons and Companies Amendment Ordinance (No. 5) seeks to secure the incidence of the Tax on Persons and Companies in the case of persons liable therefor who may be absent from the Orange Free State, and in the case of estates which may be liable by an amendment of the Tax on Persons and Companies Ordinance No. 4 of 1928. The concluding Ordinance enables the Commissioner for Inland Revenue to declare any person having the management, control or custody of moneys of another who may be absent from the Province, an agent of the latter, and such agent, and the legal representative of any person, is, by the Ordinance, made liable to the extent of any income or moneys, or the value of any property of which he has the management, control or custody, for the payment of any tax or penalty imposed by the Ordinance on his principal trustee or other legal representative of an estate.

5. TRANSVAAL

FOURTEEN Ordinances were passed in the year.

Wheel Tax.—By an amendment of the Wheel Tax Ordinance (No. 1 of 1941) Vehicle is defined to mean any contrivance or device running on wheels which is constructed, adapted or fitted to be drawn by one or more animals or is propelled or drawn by steam or mechanical power and used or designed to be used for the purpose of conveying or transporting persons, goods or merchandise and includes a bicycle, tricycle, traction engine, threshing machine, threshing engine and a boring machine, provided that a water cart, any contrivance or device fitted with pneumatic tyres, any contrivance or device used exclusively upon stationary rails or tracks and any other contrivance or device propelled, drawn or moved by human power other than a bicycle or a tricycle shall for the purpose of the Ordinance be deemed not to be vehicles.

Hospitals.—No. 9 extends the powers of the Administrator to take action when hospital boards fail to carry out or properly execute their duties by substituting a nominated board in order to enable them to meet their obligations.

Local Government.—The powers of local authorities are amended, especially as regards the closing or diversion of streets, by No. 11. It also amends the provisions of the pension fund for non-European employers of the Fund.

Motor Vehicles.—Transactions in second-hand motor vehicles and trailers are dealt with in No. 12 by an amendment of the Motor Vehicle Ordinance, 1931.

6. NORTHERN RHODESIA

[*Contributed by* E. I. G. UNSWORTH, ESQ., *Crown Counsel.*]

THIRTY-ONE Ordinances were enacted during the year 1942, of which the following are the most important:—

Excess Profits.—No. 1 imposes a tax on excess profits. The profits chargeable with excess profits tax are all profits derived by any person from any business, the income from which is chargeable with income tax under the Income Tax law. Arrangements may be made with the Government of the United Kingdom and other British possessions with a view to granting relief against double excess profits tax.

High Court.—No. 11 amends the High Court Ordinance so as to permit the Court to allow a Labour Officer to represent Africans in any cause or matter in the High Court or a Subordinate Court. Prior to this Administrative Officers could appear with the permission of the Court, and a similar right has now been given to the Labour Officers as cases arise in which the guidance of a Labour Officer is of assistance to Africans litigating before the Courts matters arising out of their employment.

Factories.—No. 16 enables the Governor in Council to make regulations providing for the supervision of factories and machinery, the health and safety of persons employed in factories, the prevention of accidents in factories and for regulating the hours of employment therein. Every regulation so made is subject to consideration in Legislative Council and becomes void on the passing of a motion therein that the regulation be annulled. Any such motion must be passed at the next subsequent meeting of Council after the regulations have been laid before the Council.

Criminal Proceedings.—No. 17 amends the Criminal Procedure Code Ordinance so as to provide a procedure whereby persons accused of minor offences may, in lieu of appearance in Court, either (*a*) deposit the maximum amount of the fine which may be imposed by the Court or such less sum as may be fixed by the police officer making the charge; or (*b*) furnish the said officer with security by way of a deposit of property for the payment within one month of any fine

which may be imposed by the Court in respect of the offence. The legislation is similar to that existing in Southern Rhodesia.

Telegraphs.—No. 19 amends the Telegraphs Ordinance so as to make it an offence for a person to use offensive or indecent language when telephoning or to send a false message by telephone or telegram with the intention of causing annoyance.

Native Courts.—No. 21 amends the Native Courts Ordinance so as to make more explicit provisions regarding the powers of native courts in cases of either civil or criminal jurisdiction. This Ordinance specifies the various forms of punishment which may be imposed by a native court in cases of a criminal nature. It also provides that a native court, in cases of a civil nature, may (*a*) award compensation; (*b*) order the specific performance of a contract; (*c*) order the restitution of any property; and may make any other order which the justice of the case may require. It also provides for the payment of compensation by such instalments as the Court may think just, and empowers the Court to order that the amount of compensation may be levied by the sale of any property belonging to the person ordered to pay the compensation. It further provides that a person who, having the means to pay, refuses or wilfully fails to pay any compensation awarded by a native court, shall be guilty of contempt of court and shall be liable on conviction to a fine not exceeding £5, or in default thereof to imprisonment not exceeding six weeks.

7. SOUTHERN RHODESIA

[*Contributed by* R. J. Morton, Esq., *Solicitor-General.*]

1941

Of the twenty-two public Acts passed in this session, the following may be of general interest:—

Workmen's Compensation.—No. 12 replaces the outworn law of 1918. Although the general principles of liability to pay and protection of compensation are those contained in English legislation, the Act has some novel features. From the comprehensive definition of "workman," which broadly covers every person under contract of service or apprenticeship whose annual rate of remuneration does not exceed £720, are excluded not only the usual classes such as persons employed in the Defence Forces, police and public service, outworkers and casual workers, but also all persons employed in domestic service other than in connection with hotels or boarding houses. Newcomers to the classes of dependants who may claim compensation are adoptive parents, uncles and aunts wholly or partially dependent on the workman, and any other relative, whether by consanguinity or affinity, who is wholly dependent upon him. If an Asiatic workman leaves two or more widows, only one of them (and upon the Commissioner is cast the duty of designating which one) can be treated as a dependant.

As to amount and method of compensation, the common law is completely ousted; but the balance is restored by giving the Courts power, in any case where the accident was due to the employer's negligence or to any patent defect in the condition of premises, works or machinery, to award increased compensation beyond the scale fixed by the Act and up to the total amount of pecuniary loss suffered by the claimant. Both in case of disablement and of death, the method of compensation to the workman or to his widow and children is monthly payments or pension, and redemption of these by lump sum payment is not encouraged. By agreement a workman receiving a monthly pension for permanent disablement may commute for a lump sum payment a part of his pension not exceeding either 15 per centum or £1 per month. Also, at any time within five years after the date of an award, the Court may on good cause shown order the payment of a lump sum in lieu of a pension.

One of the most unusual provisions is that, if a workman in receipt of a pension dies from any cause which is not the result of the accident, his widow and children continue to receive pension and allowances; this provision does not extend to other dependants and the widow's pension ceases on remarriage.

In case of death resulting from the accident, the compensation to dependants, when there is neither widow nor children, is by lump sum payment, based, as to the maximum, on three years' earnings, or £960, whichever is the less. Every lump sum payment must be made to the Commissioner, who has a discretion to pay it direct to the beneficiaries, to invest it on their behalf or to pay it over in trust to the Master of the High Court or to trustees.

For native workmen and their dependants, although in all other respects the Act applies to them, special provisions are made as to amount and method of compensation. No written notice of claim is required, but employers must report every accident to the native commissioner of the district, who endeavours to settle claims by agreement. Periodical payments only apply to temporary disablement. For permanent disablement, there are lump sum payments based on three years' earnings, but not exceeding £200; in case of death, dependants are entitled to a lump sum not exceeding £130. For medical and hospital treatment the limit of the employer's liability is £25. No costs can be awarded by a Court against a native claimant or his dependants. Compensation moneys are paid to the native commissioner, who has complete discretion as to the form and manner in which he pays them to the beneficiaries.

Evidently the legislature thinks that good employers cannot be deterred from doing more than the law compels. If in respect of an accident a workman, or his dependants, has received or will receive any pension or gratuity outside the provisions of this Act, no matter whether it is paid voluntarily by the employer or the recipient is entitled to claim it from any superannuation or provident fund to which the employer has contributed, no reduction whatsoever is on that account to be made in determining the compensation payable under the Act. No employer may require or permit his workmen to contribute to the cost of any liability which he may incur under the Act.

For the first time insurance is made compulsory; the State does not undertake it, but allows to operate only those insurers who are specially licensed for the business on such conditions as the Minister may impose. The employer must furnish and maintain first-aid services and appliances and, when an accident occurs, must defray medical and surgical expenses to a limit of £150 and the cost of artificial limbs to a limit of £50 for each workman injured.

As in the Union of South Africa, a Workmen's Compensation Commissioner is appointed. His main duties concern investigation of claims and complaints, examination and approval of settlements, receipt and administration of compensation moneys, collection of statistics and appeasement. No dispute under the Act may come before a Court until it has been referred to him with a view to settlement by agreement. He is also enjoined to devise any scheme which he may deem suitable for the prevention of industrial accidents or scheduled diseases, but has no power to enforce its application.

Normally, all disputes arising under the Act are determined by a magistrate, assisted where necessary by one medical and one technical assessor; but, where the value of a claim exceeds £100, the claimant has the option of commencing his action in the High Court. In most cases magistrate's decisions are subject to appeal to higher courts.

Natural Resources.—That it is only an incomplete beginning, this Act (No. 9) itself confesses; one of the functions of the Board appointed under it is to recommend to the Government the nature of the legislation deemed by the Board to be necessary for the proper conservation and use of natural resources. The net is cast wide; natural resources are defined to mean the soil, water and

minerals of the colony, the animal, bird and fish life of the Colony, the trees, grasses and vegetable products of the soil, and such other things as the Governor may by proclamation declare to be natural resources. For the proper exercise of the correspondingly wide powers conferred by the Act one essential not yet available, as Parliament recognized, is equally large material and financial resources. In the meantime, those who are willing to help themselves are to be encouraged. If on their own initiative owners of land in any area ask for it and two-thirds of all the owners of land in that area subsequently consent to it, the Minister may declare such area to be an intensive conservation area. Thereupon an elected committee is empowered to inaugurate, undertake and maintain, subject to the Board's approval, works for soil and water conservation; the cost will be borne by all owners of land benefited thereby in such proportions as may be mutually agreed upon or, failing agreement, as may be determined by the Board.

Where private initiative is lacking, compulsion must be used. The Board itself may give direct orders to individual owners and occupiers of land to adopt means necessary to conserve soil, water or vegetation. Failure to obey is a criminal offence; but the law does not compel the impossible, and therefore financial assistance, where it is both necessary and recommended by the Board, will be given from such public funds as may be available. The Government itself, when advised to do so by the Board, may construct and maintain conservation works on any land, public or private. Here again the Board decides whether and to what extent owners of land benefited thereby must contribute towards the cost, and the amount of any such contributions may be made a charge against their properties. From orders and decisions of the Board there is generally an appeal to a special court of referees, presided over by a judge of the High Court.

As the ownership in the communal native reserves is not vested in the users, but in trustees appointed by the Constitution, they are dealt with separately. With the consent of the trustees, who must first be satisfied that the occupiers can be suitably accommodated elsewhere, the Board may direct that eroded land shall be reserved against human occupation or cultivation, against the depasturing of stock or the cutting of trees or other vegetation. Without taking such extreme measures, the Governor, on the recommendation of the Board, may take measures to prevent overstocking by domestic animals. Lower down the scale, native commissioners are empowered, on their own initiative and at their discretion, to make orders relating to the depasturing of stock, methods of cultivation and the control of water. From a native commissioner's order there is an appeal to the Board, and in any event no such order can involve any monetary contribution by, or fix any financial responsibility upon, native users of this communal land.

Land Apportionment.—Of the Colony's total area of 96 million acres, some 21½ millions are by the Constitution set aside as native reserves for the communal use of indigenous natives. No 11, which replaces an Act of 1930 and whose purpose was described by the Prime Minister as "to enable us to develop the African up to a civilized state in his own areas," deals with the remaining extent. To the native area for purchase by natives on individual tenure are assigned nearly eight million acres, to the forest area under Crown ownership and management one million acres and to the European area 48 millions; as compared with 1930, this means that the native area and the forest area have been increased by 400,000 acres each, mainly at the expense of the European area. The remaining 17¾ million acres, all in Crown ownership, is the unassigned area, the cushion designed to minimize the effect of miscalculations which time may show to have been made in the apportionment of land between the two races; the Governor may assign land in this area to the European area or to the native area, but to every assignment he must have the

approval of the Secretary of State. In the meantime, it may be leased, but not alienated, in limited acreages to individuals of either race after the Chief Native Commissioner has reported in each case whether the interests of natives will be adversely affected by such lease.

The purchaser of land in the native area does not get freehold title. He may not alienate or lease his land or encumber it with *fidei-commissum* servitude or mortgage, without the approval of the Native Land Board. If he does not use it in accordance with the conditions of his title, it may be forfeited; in practice the conditions are suited to the particular type of land and relate mainly to good husbandry and conservation of natural resources. As to date less than 400,000 acres have been alienated, this State control is still practicable in the native area. In this Act no attempt was made to impose similar restrictions on European title; the greater part of the European area had already been alienated.

Separation of land ownership by geographical limits does not in itself solve the problem, because in present circumstances each race to a greater or less extent needs the presence of the other in its own area. The bulk of the Act therefore deals with the necessary adjustments.

From the native area the European and the foreign native immigrant are rigorously excluded from settlement. For mining purposes they have the right to enter; though this appears to be the biggest loophole, the area is not highly mineralized. No acquisition of land is allowed, except for educational, religious or other purposes considered by the Governor to be for the benefit of the native residents, and then in each individual case the consent of the Governor and of the Secretary of State must be obtained. Mere permits of occupation may be obtained for educational, religious and other like purposes, for the administrative purposes of the Government, and for hotels and trading. In practice trading sites are allowed on short leases only. The exclusion of the alien native applies only to the foreign immigrant to the Colony; his son born in the Colony is freed from restriction.

Natives are already in the European area in large numbers, and therefore the arrangements for their accommodation are more complicated. Native urban areas attached to European towns are to be owned and administered by the local authorities of such towns, subject to Government approval of lay-out and services. Further out, but still in the vicinity of European centres and designed to accommodate native employees and artisans and their families are to be Government-owned and Government-administered village settlements. These will be governed by their own laws and will not be subject to any other law relating to local government. In the country, a landowner may allow on his land the families of natives who are continuously in his service and also those who are under agreement to work for him for periods of the year only; but in the latter case the terms and conditions of every agreement must be approved by the Chief Native Commissioner and must provide for the payment of a wage in money. Here the big improvement on the 1930 Act is the discontinuance of rent-paying agreements. The system is not entirely abolished. All existing agreements are cancelled with effect from December 31, 1942; thereafter permits of much the same tenor will be issuable, but only in respect of natives who were in occupation of such land on August 1, 1941. This aims at the gradual elimination of the absentee European landlord who farms his land by means of rent-paying native squatters. On the outermost circle come natives who are permitted to occupy vacant Crown land on conditions prescribed by the Governor for particular cases.

Railways.—To the railways war has brought considerable increase in traffic and profits. Under peace-time legislation this would have resulted in both reduced tariff rates and increased dividends. No. 17 freezes tariff rates and sets a limit to dividends, thus allowing unforeseen war-time profits to swell the

rates stabilization account as an insurance against the possibility that loss of traffic after the war would cause increase in tariff rates.

Electoral.—By tacit agreement certain British subjects are not conscripted for war service until they have been at least two years in the Colony. On the principle that he who will not fight shall not vote, No. 10 disqualifies from enrolment as a Parliamentary voter " any person residing in the Colony who is, under the provisions of any Act in force in any part of His Majesty's dominions outside the Colony, a national or citizen of that part within the meaning of that Act," for the period of two years from the date when his residence in the Colony first began. This disqualification can be removed by any claimant who makes a sworn declaration expressing his willingness to serve in any of His Majesty's Forces if called upon to do so. Contrariwise, the same Act disqualifies " any person who is a member of His Majesty's Forces on full pay and the wife of any such member," unless, of course, they are genuine Rhodesian citizens. This discloses no essential military information, but reveals apprehension lest, on the six months' residence qualification, the personnel of air training schools might swamp the Rhodesian-born electorate.

1942

Of the 23 public Acts passed in 1942, no less than 13 were financial. Income tax is stepped up to a maximum of 10s. 6d. on the excess of taxable amounts over £2,000. The duty on transfer of immovable property is, for values over £1,000, doubled to four per cent. Tobacco growers, who are profiting by war-time prices of raw tobacco but who, in common with other farmers, have not been taxed on excess profits, are now subjected to a tax of five per cent. on gross sales, though the incidence of the tax is tempered by a series of deductions and abatements almost as complicated as those of income tax. The consumer does not escape, for the excise duty on manufactured cigarettes is doubled. The only sign of relaxation is the exemption from succession duty of the first £5,000 accruing to a parent or child from the estate of any person killed on active service; this is the same relief as is granted to a widow in peace time.

Of the many amendments made to the law of coinage and currency, only two have much practical significance; the silver coinage may be supplemented by the issue of notes of smaller denominations than ten shillings, and alloys other than bronze or cupro-nickel may be used for coins of lesser value than one shilling.

Farming.—Though no actual consolidation was done during the year, the repeal of five Acts which dealt separately with orchards, nurseries, cotton pests, tobacco pests and the importation of plants has improved the statute book. They are replaced by a single Plant Protection Act (No. 2), which gives sweeping powers for preventing and eradicating plant diseases of all kinds. The only member of the vegetable kingdom mentioned by name is cured tobacco. All premises in which is stored tobacco intended for sale or export must be licensed, periodically inspected, cleansed and treated with insecticide, and certified free from pests; in the case of premises in rural areas, these provisions extend to the whole farm on which they stand and to all other buildings on that farm.

The Farmers' Licensing Act (No. 21) is nothing more than a means of financing a National Farmers' Union. Every person who farms 50 acres or more must take out a yearly licence at a fee which is fixed from time to time by the Minister, but must not exceed £2. Natives are exempt. The Government collects the fees and hands them over to a State-recognized National Farmers' Union, which, though not otherwise subject to any Government control, can only spend these fees on objects which are included in its constitution at the time of its recognition or are subsequently added thereto with the Minister's approval.

Industries.—No. 18 creates a corporation, initially financed by the Government, to take charge of the infant iron and steel industry. No monopoly is given in so many words. But the members of the governing body are appointed by the Governor. They must administer their undertakings on business principles, so far as may be without making a profit; they are directed to pay due regard to the promotion, by means of cheap iron and steel, of agricultural, industrial and mining development within the Colony. Financially, therefore, they should be able to face without fear any competition from within the Colony. The corporation has no power to hold shares in any other corporate body; if at any time it should have surplus funds not immediately required for development, it is prohibited from investing them, and must either use them for repaying its initial capital or place them on temporary deposit with the Treasury.

With some variations in the method and degree of Government control, No. 20 does much the same for the cotton industry. In this case the Government is empowered to fix minimum prices for raw cotton (the corporation is not empowered to grow its own cotton except for research purposes), and also to fix the actual prices at which the manufactured products are to be sold.

War Measures.—The enforcement of conscription for military service has brought forth some curious legislation. In No. 1, amending the National Services (Armed Forces) Act, 1940, the legislature, aiming at parents who might be tempted to send their children to the Union of South Africa for education and then to keep them there for the purpose of evading military service, has been driven to enact that for the purposes of the Act "a person domiciled in the Colony shall be deemed to be ordinarily resident in the Colony, although in fact he is not resident or has never resided therein." No. 12 completes the process and partially revives the penalty of banishment by making it possible for any British resident of the Colony (other than a person born in the Colony) who has left or remained beyond the borders of the Colony for the purpose of evading military service, to be declared a prohibited immigrant. Against recusants who remain in the Colony, the Minister of Defence may, by civil process, obtain from the High Court an order of civil disabilities. This order, which the Court must grant on proof of refusal to serve or to take a special oath of allegiance or on proof of desertion, disqualifies the respondent from voting at any election, Parliamentary or municipal, from holding any office or employment under the Government and from receiving any Government assistance by way of loan or the acquisition of land on special settlement terms. In addition, the order may, at the discretion of the Court, disqualify him from holding any trading, mining or liquor licence and from purchasing or using any firearm. Respondent's wife is placed under the same disabilities as her husband. Some relief is given to conscientious objectors on religious grounds, but only if they satisfy the Court that they are ready to serve in the non-combatant ranks of the armed forces.

Natives are not conscripted for military service. No. 15, however, provides for their compulsory engagement, between the ages of 18 and 45, as civilian labourers. Only those who have been out of private employment for three months or out of Government employment for six months are liable to be called up. The Minister of Native Affairs must be satisfied that native labourers are required for the particular work, and the directions for calling men up are given by the Chief Native Commissioner, through native commissioners, to chiefs and headmen. The natives are to be paid not less than the ruling current wages for the class of work they are required to perform, and are placed under the supervision of Government officials whose duty it is to see to their proper housing, feeding, payment and return to their homes after dismissal. The period of compulsory engagement must not exceed six months. This Act will expire at the end of the war.

VII. BRITISH INDIA AND BURMA

1. CENTRAL LEGISLATURE

[*Contributed by* RAI BAHADUR NARESH CHANDRA RAY]

DURING the year 1942 there was no change in the constitutional position. The total legislative output of the year consisted of 68 Ordinances, 4 Regulations, and 26 Acts passed by the Central Legislature. There was no occasion to invoke the special powers of the Governor-General under s. 67B of the old Government of India Act as set out in the Ninth Schedule to the Government of India Act, 1935.

Ordinances.—The comparatively large number of Ordinances made by the Governor-General in exercise of his powers under s. 72 of the old Government of India Act to legislate in cases of emergency is attributable to conditions brought about by the war. Out of the 68 Ordinances, 27 are of a substantive character. The remaining 41 are amending and extending measures.

Criminal Law.—The substantive enactments deal with a large variety of subjects. The Special Criminal Courts Ordinance (No. 2—since repealed) provides for the setting up of Special Criminal Courts for the expeditious disposal of such criminal cases as these Courts may be authorized to try.

The Penalties (Enhancement) Ordinance (No. 3) provides for enhanced and deterrent penalties in certain circumstances for offences such as sabotage, theft in premises damaged by war operations, looting, mischief by fire and rioting.

Motors.—The Motor Vehicles (Drivers) Ordinance, 1942 (No. 5), provides for the requisitioning on behalf of Government of the services of persons capable of driving motor vehicles and the registration of their names.

Cotton.—The Cotton Fund Ordinance, 1942 (No. 8), enables a fund to be established for financing measures for the benefit of growers of cotton of certain types formerly exported to the Far East.

Pioneer Force.—The Civil Pioneer Force Ordinance (No. 10) provides for the constitution of a Civil Pioneer Force for the performance, where necessary, of certain essential works and services during the war.

Police.—The Police (Resignation of Office) Ordinance (No. 11) suspends the right of certain members of the police force to resign on short notice but leaves to the local police authorities discretion to accept such notice if circumstances permit.

War Risk Insurance.—The War Risks (Factories) Ordinance (No. 12) provides for the compulsory insurance of factories and properties appertaining thereto, against war risks in accordance with a scheme framed for the purpose.

Women's Auxiliary Corps.—The Women's Auxiliary Corps Ordinance (No. 13) provides for the constitution on a voluntary basis of a Women's Auxiliary Corps service in India as part of His Majesty's Military Forces.

Collective Fines.—The Collective Fines Ordinance (No. 20) enables the Provincial Government to impose collective fines on the inhabitants of areas who appear to be concerned in or abetting the commission of offences prejudicially affecting the defence of British India or the efficient prosecution of the war, or are not giving all assistance in their power for the detection or apprehension of the offenders or are harbouring the offenders or are suppressing material evidence relating to their offences.

Air Raid Precautions.—The Railway Air Raid Precautions Services Ordinance (No. 21) provides for the constitution of an Air Raid Precautions Service for Railways.

Deputy Commander-in-Chief.—The Deputy Commander-in-Chief (Powers) Ordinance (No. 22) is intended to give relief to the Commander-in-Chief by enabling his statutory powers and functions to be exercised by an officer appointed as Deputy Commander-in-Chief.

Bank Notes.—The Burma Notes Ordinance (No. 28) regulates payments in British India by the Reserve Bank of India of the value of Burma Bank Notes.

Hellenic Navy.—The Hellenic Naval Court Ordinance (No. 30) enables offences committed on board a certain ship of the Royal Hellenic Navy to be tried and punished in British India by a Naval Court constituted under the Hellenic Law. No. 34 applies the provisions of the Hellenic Naval Court Ordinance, 1942 (Ordinance No. 30) to certain naval courts constituted under the Hellenic Law to which the latter Ordinance does not apply.

Civil Service.—The Civil Services (Conditions of Service) Ordinance (No. 33) enables persons serving His Majesty in a Civil Capacity in India, to be required by Government to serve in any place in India.

Armed Forces.—The Armed Forces (Special Powers) Ordinance (No. 41) gives powers to officers of the armed forces to order, in certain circumstances, personnel under their command to use such force as may be necessary, even to the causing of death.

Reserve Bank of India.—The Reserve Bank of India (Rangoon Register) Ordinance (No. 44) permits the maintenance of the Rangoon share register of the Reserve Bank of India at and the transfer of the Rangoon office of the Bank to any place in India or Burma. No. 9 amends the Reserve Bank of India Act, 1934, by omitting references to Burma from certain sections of the Act.

Railways.—The Railways (Hours of Employment) Ordinance (No. 45) gives the Central Government power to suspend, when necessity arises, the provision of Chapter VIA of the Indian Railways Act, 1890, whereby the hours of employment of railway servants were limited. The Railways (Employment of Military Personnel) Ordinance (No. 53) regularizes the position of members of His Majesty's Forces when employed in the working and management of railways and provides that when the appropriate military authorities assume charge of any railway or any section thereof, the Indian Railways Act, 1890, will, so long as the assumption continues, cease to be applicable to the railway or section concerned.

Companies.—The Registration of Transferred Companies Ordinance (No. 54) enables companies incorporated by or under the law in force in certain parts of His Majesty's dominions outside British India, to continue to operate effectively by transfer to British India.

Allied Forces.—The Allied Forces Ordinance (No. 56) makes provisions respecting the armed forces in British India of foreign powers allied with His Majesty and of certain foreign authorities corresponding to the provisions made in England by the Allied Forces Act, 1940 (3 & 4 Geo. VI, c. 51) and the Acts made applicable by that Act to such forces in England. The Allied Forces (United States of America) Ordinance (No. 57) bars (with certain exceptions) criminal proceedings against members of the Military and Naval Forces of the United States of America.

Legal Tender.—The Legal Tender (Inscribed Notes) Ordinance (No. 59) restricts the negotiability of currency and other notes inscribed with messages of a political character.

Taxation Records.—The Income Tax and Excess Profits Tax (Emergency) Ordinance (No. 60) seeks to remove difficulties caused by the destruction in times of civil turmoil of records relating to the collection of Income Tax and Excess Profits Tax, by enabling the preliminary measures taken for the collection of the tax to be repealed.

Constitution.—The Indian Legislature (Prevention of Disqualification) Ordinance (No. 62) declares certain offices in the service of the Crown in India to be offices the holding of which does not disqualify the holder thereof for election as or continuation as a member of either Chamber of the Indian Legislature. The Ordinance was given retrospective effect from the outbreak of the war by virtue of a power derived from the proviso to sub-section (1) of s. 63 E of the Govern-

ment of India Act as set out in the Ninth Schedule to the Government of India Act, 1935.

Miscellaneous.—The Crown Representatives' Commissions of Enquiry (Summonses) Ordinance, 1942, Bengal and North-Western and Rohilkund and Kumoan Railway Companies (Transferred Liabilities) Ordinance, 1942, and the Commissioner of Ajmer-Merwara (Construction of References) Ordinance, 1942 (Nos. 35, 67 and 68) deal with comparatively minor matters which are indicated by their titles.

Out of the forty-one amending and extending Ordinances, twenty-three (Nos. 7, 24, 29, 32, 37, 40, 42, 43, 46, 49, 55, 61, 63 and 65) amended Ordinances made in the year under review and the two preceding years, namely, with the object of removing defects and facilitating the working of the principal Ordinances. The remaining eighteen Ordinances were concerned with amending Act of the Legislature to meet various needs arising during the year.

Coinage.—No. 4 amends the Indian Coinage Act, 1906, to provide for the Coinage of eight anna pieces and coins of smaller value of such metals as the Central Government may determine.

Prisons.—No. 15 amends the Prisoners Act, 1900, so as to permit prisoners to be removed from areas in British India exposed to the danger of enemy attack to jails under the control of the Crown Representative.

Aliens.—No. 16 extends the Provisions to the Registration of Foreigners Act, 1939, to persons who were at birth Japanese, Chinese and Thai subjects and certain other persons, to whom the Act did not apply.

Constabulary.—No. 17 applies the provisions of the United Provinces, Special Armed Constabulary Act, 1942, to the members of the armed constabulary constituted under the Act while serving outside the United Provinces.

Defence of India.—No. 23 amends the Defence of India Act, 1939, to remove doubts as to the extent of the rule making power in one respect, to make certain offences under the Official Secrets Act, 1923, cognizable and non-bailable, to facilitate the movement of transport vehicles under the Motor Vehicles Act, 1939, and to make provision for the employment of the military and police force of an Indian State in British India. No. 48 amends the Defence of India Act, 1939, to give power to make rules regulating the cultivation of crops in the light of the current needs of the country.

Auxiliary Forces.—No. 27 amends the Auxiliary Force Act, 1920, to make a larger number of persons available for military duties and to provide for reinstatement in civil employment after the war of members of the force engaged in whole time military duties.

Active Forces.—No. 31 amends the Indian Army Act, 1911, and the Active Services Ordinance, 1941, to facilitate the application of the Act to forces raised and maintained in India under the authority of the Central Government. No. 58 amends the Indian Army Act, 1911, and the Indian Air Force Act, 1932, to secure that defects in enrolment even of minors cannot be agitated after the person enrolled has been in receipt of military or air force pay for three months. Ordinance No. 64 amends the Indian Soldiers' Litigation Act, 1925, to extend the productive powers to serving soldiers and to remove the doubt as to whether soldiers who have become prisoners of war are entitled to protection under the Act. Ordinance No. 66 extends the application of the Armed Forces (Special Powers) Ordinance, 1942 (No. 41) under certain circumstances to members of a police force when employed, as they now often are, on quasi-military duties.

Tea.—No. 47 amends the Indian Tea Control Act, 1938, to provide for the extension of the term of the special export licences that may be issued under the Act and to render them transferable.

Press.—No. 52 amends the Indian Press (Emergency Powers) Act, 1931, in consequence of a judicial decision, so as to bring the printer of an unauthorized news-sheet or newspaper within the scope of s. 18 of the Act.

Regulations.—Four Regulations were made during 1942 under s. 95 (3) of the Constitution Act, providing for the application of certain Acts with necessary modifications to British Baluchistan.

Acts Passed by the Central Legislature.—Of the 26 Acts passed by the Central Legislature in 1942, twenty, including the Repealing and Amending Act, 1942, were Amending Acts. The enactments relate to a variety of subjects and are dealt with in groups below.

Co-operative Societies.—Multi-Unit Co-operative Societies, that is to say co-operative societies operating in more than one province, are corporations within the meaning of entry No. 33 of List I of the Seventh Schedule to the Constitution Act and legislative and executive jurisdiction over such societies is exclusively central. It is therefore necessary to provide for the incorporation, regulation and winding-up of co-operative societies with objects not confined to one province by central legislation. The Multi-Unit Co-operative Societies Act (No. 6) effects them by applying to multi-unit societies the existing legislation applicable to societies operating within a single province, and by providing for the appointment of a Central Registrar.

Trade, Business and Industry.—On the outbreak of the war the Indian Coffee industry lost certain important foreign markets, and a slump in the prices of coffee followed. Ordinance No. XIII of 1940 was promulgated for a limited period to assist the coffee industry by regulating the export of coffee from and the sale of coffee in British India and by other means, including provision for the imposition of duties of customs and excise on coffee to provide a fund to be spent by a Board for the benefit of the coffee industry. As these provisions were found beneficial, the Coffee Market Expansion Act, (No. 7) was passed to continue the operation of this Ordinance for the duration of the war and till the end of one coffee crop year thereafter. The Industrial Statistics Act, 1942 (No. 19) was passed to facilitate the collection of reliable information regarding industrial and labour conditions. The Indian Companies Act, 1913, was amended twice in 1942, by Nos. 17 and 21. No. 17 brought its provisions relating to the consolidation or sub-division of share capital of a company into line with the English law. No. 21 removes a difficulty that had arisen in the interpretation of the principal Act with regard to the meaning of the expression banking companies. No. 22 amends the Rubber Control Act, 1934, to obtain power to stop the export of rubber from India and to remove the restrictions regarding the planting of rubber with a view to conserve and increase the supply of raw rubber and counteract the shortage caused by enemy occupation of rubber producing countries.

Law and Justice.—No. 8 amends the Indian Penal Code to clarify the meaning of the word "harbour" as used in different sections of the Code and to resolve a conflict of judicial opinion that had arisen regarding the meaning and scope of the word. No. 16 amends s. 20 of the Indian Limitation Act, 1908, by providing that payment on account of a debt or of interest on a legacy, by the person liable to pay it, or his authorized agent, before the end of the prescribed period of limitation, would give a fresh starting point for the computation of that period. S. 20, as it stood formerly, required that before a fresh starting point could be obtained the payment should be of part of the principal of the debt or of interest *as such*. This caused hardship to the creditor as payments are often made by debtors on account of a debt without specifying whether the payment is in respect of principal or interest. Nos. 23 and 24 amend the Code of Civil Procedure, 1908. No. 23 provides that in any suit or appeal in which a substantial question arises as to the interpretation of the Constitution Act or any Order in Council made thereunder, the Court, after giving notice to the Advocate-General of India or of the Province, according as the matter concerns the Central Government or the Provincial Government, may make the Government concerned a party to the proceedings. No. 24 provides for the recovery of

Court-fees in pauper suits under Order XXXIII of the first Schedule to the Code of Civil Procedure, 1908, where the suit abates by reason of the death of the sole-plaintiff or of one of several co-plaintiffs. No. 24 also provides for the speedy realization of sums payable to Government as the value of court-fees in pauper suits by enabling the Collector to recover them as arrears of land revenue. The Federal Court (Supplementary Powers) Act, 1942 (No. 26) enables the Federal Court to delegate to the Registrar or other officer of the Court, any judicial, non-judicial and quasi-judicial functions that may be suitably entrusted to such officer.

Fiscal.—The Protective Duties Continuation Act (No. 11) extends till March 31, 1944, the protective duties on sugar, silver, thread, iron, wheat and certain other commodities which were due to expire on March 31, 1942. The Finance Act, 1942 (No. 12) makes the appropriate annual provision for fixing rates of salt duty, postal charges, income-tax, super-tax and excess profits tax, for increasing the excise duty on motor spirit, kerosene and silver, and for a surcharge of 20 per cent. on all imported goods chargeable with customs duty with certain exceptions. Provision is made to enable assessees with annual incomes exceeding Rs. 1,500, but not exceeding Rs. 2,000, who are liable to income-tax at 6 pies in the rupee (excluding the first Rs. 750 of the income) to obtain exemption from income-tax by depositing an amount slightly in excess of the income-tax, namely, 4 per cent of his assessable income, in the Post Office Defence Savings Bank. It is also provided that a concession is to be given to excess profits tax assessees to have an amount up to one-tenth of their excess profits tax funded for their benefit, provided they deposit with the Central Government double this amount. The funded portion of the amount deposited will be released, subject to certain conditions, while the remainder will be repayable 12 months after the war with simple interest at 2 per cent. per annum.

Labour.—The Weekly Holidays Act (No. 18) provides for the compulsory weekly closing of shops for one day, and the grant of a weekly holiday to persons employed in restaurants and theatres (other than those employed in a confidential capacity or in a position of management) without deduction of wages, the Act also provides that if it is so notified by the Provincial Government shops will be closed for an additional half-day without any deduction being made from the wages of employees.

Miscellaneous.—No. 1 amends the Workmen's Compensation Act, 1923, so as to take away from seamen any right to claim compensation for war injuries under the Act, if they are entitled to claim compensation under certain specified schemes made by the Central Government and by competent authorities in the United Kingdom. No. 2 amends the Indian Merchant Shipping Act, 1923, so as to prevent the possibility of any claim for compensation for loss of effects being made by a *lascar* under the Act, if for the same loss he is entitled to receive compensation under certain specified schemes of compensation framed in the United Kingdom and in British India. No. 3 amends the Indus Vessels Act, 1863, to repeal the provisions relating to and connected with the levy of pilotage fees and the maintenance of pilotage establishments. No. 4 amends the Indian Medical Council Act, 1933, to enable the Council to appoint visitors to attend examinations held in British India for the purpose of the grant of recognized medical qualifications. No. 9 amends the Cotton Ginning and Pressing Factories Act, 1925, to enable weekly returns to be obtained of cotton ginned in addition to weekly returns of cotton pressed. No. 10 amends the Indian Patents and Designs Act, 1911, to enable the Controller of Patents and Designs to extend the time for taking action under the principal Act where such action is delayed owing to the applicant being on active service or to other circumstances arising out of the war. No. 13 amends the Agricultural Produce (Grading and Marking) Act, 1937, with retrospective effect, so as to render it capable of embracing all commodities to which the application of the Act may be considered desirable

and to validate certain declarations already made under s. 6 of the principal Act. No. 14 amends the Indian Tolls (Army) Act, 1901, to modernize and clarify the language of the principal Act and to bring the Air Force Reserve within the scope of the exemption conferred by the Act. No. 15 amends the Cantonments Act, 1924, to remove certain defects that had been noticed in the working of the principal Act. No. 20 makes certain amendments in the Motor Vehicles Act, 1939, to remove certain formal defects The Repealing and Amending Act, 1942 (No. 25), removes from the statute book certain Acts or portions of Acts which are spent or have otherwise become unnecessary and corrects small errors detected in certain other Acts

2. MADRAS

[*Contributed by* P. APPU NAIR, ESQ.]

THE number of Acts passed was 38.

Charitable Endowments.—Act VIII validates contributions made by the Tanjore District Board from the funds of the Tanjore Chattram Endowments towards the maintenance of certain educational and medical institutions and also permits of such contributions being lawfully made in the future.

Cotton Control.—Act XXXVII enhances the penalty for certain offences against the Madras Cotton Control Act, 1932, and also provides for the custody and examination of cotton seized under that Act and for the destruction of *pulichai* cotton (a prohibited variety) or of cotton mixed with *pulichai* cotton.

Cruelty to Animals.—Act XX empowers agents of the Society for the Prevention of Cruelty to Animals specially authorized by the Government to arrest without a warrant persons committing in their view any act constituting cruelty to animals and also makes all offences under the Prevention of Cruelty to Animals Act, 1890, cognizable.

Debt Conciliation.—Act XVII provides for the registration of an agreement arrived at before a Debt Conciliation Board between a debtor and his creditors without any party to the agreement or any member of the Debt Conciliation Board having to appear personally before the registering officer.

Irrigation.—Act XIII provides for the levy of a voluntary cess for the maintenance of certain irrigation and drainage works serving ryotwari tracts in the Province.

Act XVI removes a defect found in the Periyar Irrigation Tanks (Preservation) Act, 1934, in regard to the apportionment of the liability of the cost of repairing a tank.

Land Estates.—Act XXVI makes retired judicial and revenue officers possessing the necessary qualifications eligible for appointment as members of certain special tribunals constituted under the principal Act, viz., the Madras Estates Land Act, 1908.

Legislature.—Act XXII removes the disqualification imposed on persons holding the office of District Organizer of the National War Front for being chosen as, and for being, members of the Madras Legislative Assembly and the Madras Legislative Council.

Local Government.—Act I empowers the Government to direct the executive authority of a municipal council to apply to the Court for a decision in cases where a doubt arises as to whether a municipal councillor has become disqualified to hold office as such or not.

Acts VI and XXIV extend up to November 1, 1943, the term of office of aldermen and councillors of the Corporation of Madras, and of members of municipal councils and local boards who would normally have vacated their offices on April 1, 1942. The latter Act empowers Government to extend the term further, if necessary, and also provides for the replacement of district boards and municipal councils which have been superseded or dissolved, by small

nominated bodies the members of which are expected to hold office for the duration of the war and a period not exceeding 12 months thereafter.

Act VII removes the statutory restriction that municipal councils should submit their budgets before the end of December, so as to enable the Government to fix a suitable and convenient date for that purpose.

Act XI validates acts and proceedings of a special officer appointed for a newly constituted municipality (Rajapalayam), the appointment having subsequently been found to be invalid.

Act XII withdraws from local bodies the option previously enjoyed by them of reverting Government medical officers to Government service after giving three months' notice to the Surgeon-General.

Act XV takes power to make rules to exempt certain small electrical installations from the licensing provisions in s. 288 of the Madras City Municipal Act, 1919; subjects the power of the Corporation of Madras under that section to some measure of control in important matters; makes certain offences continuing offences; and exempts keepers of lodging-houses duly registered under the Madras Public Health Act, 1939, from obtaining licences under the City Municipal Act.

Act XVIII amends the Acts relating to municipalities (other than the Corporation of Madras) and local boards so as to restrict the imposition of fines to bill collectors and inferior and menial servants.

Act XXVII amends the Madras City Municipal and District Municipalities Acts so as to empower the municipal executive authority to require owners of buildings to construct house drains not only where a public drain or outfall has actually been provided by the municipality, but also in cases where one is about to be provided or is in the process of construction.

Act XXXVI amends the Madras City Municipal Act, 1919, and the Madras District Municipalities Act, 1920, so as specifically to empower the Government to frame rules for the valuation of Government and railway buildings as well as certain other buildings, for the purpose of assessing them to property tax under these Acts.

Act XXXVIII amends the Madras District Municipalities Act, 1920, in various respects, with a view to remove the difficulties encountered in working that Act and improve the municipal administration.

Motor Vehicles.—Act XXXIV provides that persons accused of certain minor offences under the Madras Motor Vehicles Taxation Act, 1931, may appear before the Court by pleader instead of in person, or plead guilty to the offence by a letter addressed to the Court, remitting at the same time the sum specified by the Court.

Nurses and Midwives.—Act XXIII provides for Government nominating an officer of the Medical Department as a member of the Madras Nurses' and Midwives' Council.

Police.—Act XXXI makes Deputy Commissioners of Police *ex-officio* Presidency Magistrates for certain limited purposes.

Probation of Offenders.—Act XXV provides that a person who is dealt with under the provisions of the Madras Probation of Offenders Act, 1936, should not suffer any disqualification attaching to a conviction for an offence unless he is subsequently convicted of failure to observe the conditions of his release.

Prohibition.—Act XXX amends the Madras Prohibition Act so as to enhance the maximum penalty in regard to illicit distillation and kindred offences.

Act XXXV exempts troops and members of medical and other staffs attached to them, who are stationed in, or pass through prohibition areas, from most of the provisions of the Madras Prohibition Act, 1937. Canteen keepers and others duly empowered to supply liquor and intoxicating drugs to troops and members of such staffs have also been exempted likewise.

Registration of Births and Deaths.—Act II makes it obligatory on the part of a parent or guardian of a child registered on birth without a name, to give

information regarding its name to the Registrar within thirteen months of the date of its birth.

Rivers Conservancy.—Act XXI amends ss. 11 and 13 of the Madras Rivers Conservancy Act, 1884, so as to make it clear that plantations and constructions on river-beds are governed entirely by s. 13 and also empowers the Conservator of Rivers in an emergency to enter upon adjoining lands (whether public or private) and take earth therefrom or do any other act necessary for repairing erosion or other damage to embankments.

Taxation.—Act IV reduces the general sales tax payable for the year 1942–43 from Rs. 5 to Rs. 4 a month in the case of persons whose turnover does not exceed Rs. 20,000 and from $\frac{1}{2}$ per cent. to $\frac{1}{4}$ per cent. of the turnover in other cases.

Act XIV specifically empowers the Government to make rules regarding the farming out of the collection of tolls levied under the Indian Tolls Act, 1851.

Universities.—Act III makes it clear that the quorum of 35 fixed for a meeting of the Senate of the Madras University is not required at convocations of the University or meetings of the Senate held for the purpose of conferring degrees, titles, etc., and also validates degrees, etc., conferred before the commencement of this Act without such a quorum.

Act V empowers the Chancellor of the same University to extend the term of office of certain elected and nominated members of the Senate, the Syndicate and the Academic Council thereof and also to postpone elections or nominations to these bodies in certain cases. The extension or postponement may be made for a period not exceeding six months at a time, but should not extend beyond March 31, 1944.

Act IX and Act X empower the Vice-Chancellors of the Andhra and the Madras Universities respectively to take action in emergencies, subject to the control of the Chancellor. The Vice-Chancellors are required to report the action taken by them in such circumstances to the Chancellor.

Act XIX permits the Andhra University to remove its headquarters and certain colleges out of Vizagapatam, until the expiration of two years after the termination of the present war.

Act XXIX gives power to the Syndicate of the Madras University to continue to recognize constituent colleges as such, notwithstanding their removal to places outside the limits of the University on account of the situation created by the war.

Act XXXII amends the Andhra University Act, 1925, for the purpose of removing certain difficulties experienced in working the Act.

Act XXXIII enables the Vice-Chancellor of the Madras University to hold elections to University bodies in anticipation of vacancies arising by efflux of time, not earlier than two months from the date on which they arise.

Village Offices.—Act XXVIII provides that the ordinary presumption applicable to service inams, namely, that they consist only of the assignment of revenue, should not extend to inam lands actually in the possession of artizans on or after July 14, 1942. Whether the inam consists of the land or only of the assignment of revenue will be decided in each of such cases, with reference to the facts found therein. The Act also enables a minor heir to a village artizan office to sue at any time within three years from the date of his attaining majority, while preserving his right to sue during minority by a next friend.

3. BOMBAY

[*Contributed by* P. W. Moos, Esq.]

DURING the period under report between April 1, 1942, to March 31, 1943, the following Acts were made by the Governor of Bombay in exercise of the powers of the Bombay Legislature assumed by him under the Proclamation dated

November 4, 1939 issued by him under s. 93 of the Government of India Act, 1935, and having received the assent of the Governor or the Governor-General, as the case required, became law. One Regulation also was made by the Governor of Bombay under s. 92 (2) of the Government of India Act, 1935, and having received the assent of the Governor-General, became law. The main purposes of each of the Acts, and of the Regulation are briefly stated below:—

(A) *Acts made by the Governor of Bombay.*

Taxation.—The object of No. VIII is to facilitate the collection of the tax in the city of Bombay on vehicles and animals by making it payable quarterly in advance instead of in arrear and by attaching ultimate liability to vehicles and animals on the analogy of the property taxes.

Tolls.—The object of No. IX is to make it lawful to levy tolls on bridges reconstructed after the commencement of the Act.

Judicature.—The object of No. XI is to enable the District Judge of a neighbouring District who will be appointed Joint Judge in the absence of the District Judge, during the vacation to dispose of civil work in either District.

Education.—The object of No. XII is to enable Government to make nominations where such nominations are absolutely necessary. Under the existing provision the main difficulty was that a new School Board could not begin to function until all its members were elected. To meet this lacuna, Government can now make nominations. The Act also provides that the representatives of the municipalities elected under the proviso to s. 3 (2) of the Primary Education Act, 1923, need not necessarily be members of such municipalities.

Criminal Tribes.—The object of No. XIV is to modify the provisions of s. 23 of the Criminal Tribes Act, 1924, so as to delete the provision regarding minimum penalties. The Criminal Tribes Enquiry Committee observes in its report that the section was most obnoxious and that the sentences inflicted under that section were brutal. The Act is intended to give effect to the recommendations of the Committee.

Local Authority.—The object of No. XIII is to extend the life of the Bombay Corporation for a further period of one year, that is till March 31, 1944. There had arisen in the Bombay Municipal Corporation a situation by which meetings of the Corporation and of certain Committees could not be convened. Act XIV empowers the Municipal Commissioner to convene such meetings, reduces the quorum, and increases the number of Councillors required for passing an adjournment motion. The Act is a temporary measure up to April 1, 1944.

During recent years the Corporation has lost a substantial amount of revenue by the abolition of town duty on cotton, the excise compensation, and the withdrawal of grant-in-aid out of the proceeds of tobacco duty. On the other hand, there has been a considerable increase in expenditure due to extension of primary education and improvement in extension of essential services and the provision of new amenities during the last 14 years. The gap between revenue and expenditure was hitherto met by drawings from surplus balances and the excess accumulations in the Special Funds. The object of No. XVI is therefore to afford some relief to the Corporation in the difficult situation with which it is now faced and for this purpose it is proposed to revert for a period of three years with effect from April 1, 1942, to the provision for contribution by the Corporation out of revenue for the purpose of improvement schemes in the city, as it was before the amalgamation of the Corporation and the City Improvement Trust, by providing for payment based upon twice the actual net realisations under the head of general tax, instead of three times as at present.

Women's Rights.—The object of No. XVII is to extend the operation of Hindu Women's Rights to Property Act, 1937, and the amending Act of 1938 to agricultural land in the Province with restrospective effect.

The object of No. XVIII is to enact a separate law to prevent the sale of

molasses and its passing into the hands of the illicit distiller. It penalises the possession of molasses except under a licence.

Local Authorities.—The object of No. XIX is to remove the deadlock resulting from the detention of presidents and vice-presidents of certain local bodies in prison under the Defence of India Rules by empowering the collector in such contingencies to authorize a member of the local body or the chief officer to perform all functions of the president or vice-president.

Under s. 28 of the Bombay Local Boards Act, 1923, the term of office of district local boards can be extended by the Commissioners to an aggregate period of four years. The present conditions created by the war and other circumstances are not, however, favourable for holding general elections. The object of the Act No. XXII is to enable the Commissioners to extend the term of office of the district local boards to an aggregate period of five years.

High Courts.—The object of No. XX is to amend s. 28 of the Civil Courts Act, 1869, for reasons of administrative convenience, by conferring upon the High Court the authority now vested in Government, subject to the general superintendence of Government.

Boating Accidents.—In recent years there have been some serious accidents to ferries and other craft plying in inland waters. The most serious of these was the boating accident at Surat on August 12, 1938, which involved a loss of nearly 80 lives. The Act No. XXI aims at instituting better control over vessels plying on any river, stream, creek, tank, lake, or other collection of water affording passage for a vessel, so as to prevent the recurrence of such accidents as far as possible. It also provides for certain consequential and other minor amendments.

Power Alcohol.—The object of No. XXIII is to regulate the manufacture of power alcohol and for the compulsory admixture of power alcohol with petrol for use as motor fuel in the Province of Bombay and for certain other purposes.

Mamlatdars' Courts.—The object of No. XXIV is to amend s. 23 of the Act of 1906 regulating the Courts to empower the Collectors to delegate the power of hearing revision applications to the Assistant Collectors or Deputy Collectors.

Coroners.—The object of No. XXV is to preclude inquests by the Coroner in cases of deaths resulting from enemy action, as this procedure is likely to cause great inconvenience and delay in the disposal of bodies.

Small Holders.—The object of No. XXVI is to protect persons in the Defence Services of the Crown who cannot cultivate lands themselves from eviction on account of subletting of the lands in contravention of the conditions of their respective leases.

Military Forces.—S. 23 and s. 5, sub-section (2) (d) of the Bombay Tenancy Act, 1939, intended to safeguard the interest of protected tenants and landlords, operate harshly against persons joining the military, naval, and air services of the Crown during the war. The object of No. XXVII is to safeguard the interest of persons in the Defence Services of the Crown whether they be landlords or protected tenants.

Land Improvement. The object of No. XXVIII is to provide for the making and execution of schemes relating to the construction of tanks, embankments, and other works, the prohibition and control of grazing for the purpose of preservation of soil, prevention of soil erosion, improvement of water supply and other matters in order thereby to protect and improve lands and crops in the Province of Bombay.

Co-operative Societies.—It has, for many years, been the practice for members taking loans from salary-earners' co-operative societies to sign an agreement authorizing the officer disbursing the salary to deduct from it the amount of instalment due on the loan and to remit the amount deducted to the society. It is also usual, by the same agreement, to undertake not to revoke the authority thus given so long as any part of the loan and interest thereon remains unpaid. The practice conflicted with the provisions of the Payment of Wages Act, 1936, and the

Transfer of Property Act, 1882. The object of No. XXIX is to legalize the practice.

Cotton.—The object of No. XXX is to maintain the quality and reputation of the cotton grown in certain areas, and for that purpose in those areas, to fix the variety of cotton to be grown, to prohibit the cultivation of any variety of cotton with any other cotton, and to prohibit or restrict the possession or use of, or trade in, the prohibited variety of cotton, in the best interest of the growers of cotton in these areas in the Province, the cotton trade and economic prosperity of the Province.

4. BENGAL

SEVEN Acts were passed by the legislature in 1942.

Debtors.—Amendments were made by Act I in the Public Demands Recovery Act, 1913, so as to strengthen the law against debtors who have taken fraudulent steps to conceal their property.

Agricultural debtors were dealt with in No. II amending the Agricultural Debtors Act, 1935. It provides the steps to be taken by the debtor to obtain the restoration of immovable property sold in execution of a decree for debt.

Criminal Law.—The object of Act IV is to " prevent the theft of unidentifiable articles in industrial areas."

Legal Touts.—The object of Act V is to regulate the employment of clerks of legal practitioners. Its aim is the suppression of touts in Courts and certain offices in Bengal.

Workmen's Compensation.—By an amendment Act VI of the Workmen's Compensation Act, 1923, the Court may have the assistance of a medical referee in cases of disablement.

Regulations.—Six regulations applied various measures to the Chittagong Hill Tracts. One applied the Post Office Act to the district of Darjeeling and partially excluded areas of the district of Mymensingh. The latter area was also covered by another regulation dealing with the payment of arrears of rent by tenants.

5. UNITED PROVINCES

EIGHTEEN Acts were passed in 1942.

Guardians of Wards.—When a magistrate makes an order in reference to any minor girl of the Naik caste under Act II so that she is sent to a place of detention, the manager then becomes her guardian instead of anyone appointed under the Guardians and Wards Act (VIII of 1890).

Goondas.—Amendments are made by No. IV in the Goondas Act of 1932. They include a definition of Goonda as a hooligan, bully, rogue, or badmash.

Constabulary.—No. V makes provision for the regulation of a part of the United Provinces Reserve Police to be known as the Special Armed Constabulary.

Civil Defence.—The object of No. IX is to indemnify such employees as are members of Civil Guards and Air Raid Precautions Service for absence from their work to perform civil defence duty.

Electricity.—No. X makes provisions for the temporary imposition of surcharge on sales of Electrical energy to finance the protection of Electrical installations against enemy attacks.

Women's Rights.—As the Women's Rights to Property Acts of 1937 and 1938 have not been completely effective in enabling women to acquire better rights in respect of agricultural land as with other kinds of property, No. XI has been passed with retrospective effects to remove doubts.

Local Government.—The United Province District Boards Act, 1922, is amended by No. XII so as to provide the procedure for a motion expressing non-confidence in the Chairman. No. XVI authorizes the postponement of

elections of the District Boards. No. XVII is a similar measure amending the Municipalities Act, 1916.

Regulations.—Two regulations were made to extend provisions of the Finance (Supplementary and Extending) Act, 1931, and the Post Offices Act, 1898, to partially excluded areas in the United Provinces.

6. PUNJAB

FOURTEEN Acts were passed in the year and consisted mainly of minor amendments.

Legislative Assembly.—Provision is made by Act IV amended by Act VIII for allowances to be paid to the Speaker and members of the Legislative Assembly.

Muslim Shrines.—If any woman sings to the accompaniment of a musical instrument or dances with or without an instrument in a Muslim shrine she shall be liable under Act VII to a fine not exceeding 500 rupees and a term of imprisonment not exceeding six months.

7. BIHAR

[*Contributed by* RAI BAHADUR N. C. RAY.]

NINE Acts were enacted during the year 1942. These Acts were enacted by His Excellency the Governor of Bihar by virtue of the legislative powers assumed to himself by the Proclamation, dated November 3, 1939, issued by him under s. 93 of the Government of India Act, 1935.

Agricultural Income Tax.—No. 1 amends the Bihar Agricultural Income Tax Act, 1938, mainly to remove certain doubts as to the validity of the definition of " agricultural income " in the substantive Act.

Excise.—No. 2 extends the application of the provisions of the Bihar Excise (Amendment) Act, 1940, to every intoxicating drug as defined in the Bihar and Orissa Excise Act, 1915, although such drug may also be a dangerous drug.

Cess.—No. 2 amends the Bihar and Orissa Local Self Government Act of 1885 and the Cess Act, 1880, so as to provide for the determination of the rate of local cess in a cess year in case any district board fails to fix the rate by the prescribed date.

Alluvion and Diluvion.—No. 4 amends the Bengal Alluvion and Diluvion Act, 1847, so as to entitle the proprietors of estates paying revenue directly to Government to resume immediate possession of diluviated lands which have re-appeared and reformed at the original sites subject to the assessment of revenue on such lands.

Power Alcohol.—No. 5 provides for the fostering, development and regulation of the industry of power alcohol.

Hindu Women's Rights to Property.—Devolution of agricultural land being a provincial subject cannot be affected by Central legislation, namely, by the Hindu Women's Rights to Property Act, 1937, and the Hindu Women's Rights to Property (Amendment) Act, 1938. In order to give Hindu women the benefits of similar provisions in respect of agricultural lands, the operation of the said Acts has been extended to such lands in Bihar with retrospective effect by No. 6.

Co-operative Societies.—By No. 7, the Bihar and Orissa Co-operative Societies Act, 1935, has been amended to authorize the Registrar of Co-operative Societies to revise or to replace any compromise or arrangement arrived at between a registered society and its creditors.

Agricultural Tenancy.—Owing to civil disturbances in August, 1942, landlords

could not file their suits for arrears of rent in time. So by No. 8 the period of limitation for arrears of cash and produce rents which would otherwise have expired in September, 1942, was extended by six months.

Municipalities.—No. 9 empowers the Provincial Government to postpone for the duration of the war and for a period of six months thereafter all elections to municipalities by extending from time to time the term of office of municipal commissioners and certain other officers of municipalities.

Regulations.—Seven Regulations were made by the Governor under s. 92 (2) of the Government of India Act, 1935, during the period under review.

No. 1 provides for the attachment of rents payable to a *ghatwal* in the Santal Parganas and for the appointment of an officer to collect such rents.

No. 2 applies the Destructive Insects and Pests Act, 1914, to the Santal Parganas.

No. 3 amends certain provisions of the Indian Post Office Act, 1898, in its application to the partially excluded areas of Bihar.

No. 4 amends the Chota Nagpur Division and the Santal Parganas District Validating Regulation, 1941, by extending the operation of certain Acts to the partially excluded areas with retrospective effect from specified dates.

No. 5 applies the Indian Medical Council Act, 1933, to the Santal Parganas.

No. 6 provides for the rates of commission payable to headmen of the Santal Parganas on the collection of rents.

No. 7 validates all appointments and orders made and all proceedings taken in any part of the Chota Nagpur Division and the Santal Parganas under the Special Criminal Courts Ordinance, 1942, and indemnifies the Provincial Government and all servants of the Crown in respect of certain Acts.

8. CENTRAL PROVINCES AND BERAR

SIXTEEN Acts received the assent of the Governor during 1942, and consisted mainly of minor amendments.

Motor Vehicles.—No. 3 replaces with amendments the Motor Vehicles Taxation Act, 1940 (IV of 1940). An alteration is made in the procedure whereby an owner can obtain a refund of taxation upon a car laid up for a limited time. The liability of manufacturers or dealers in motor cars in respect of taxation for cars kept by them is defined more clearly.

Procedure is simplified for the local authorities to obtain their claims to taxes on motor vehicles by enacting that instead of a separate collection they shall receive a grant from the Provincial Government equivalent to the gross average annual income derived by them for such fares or fees during the three years ending March 31, 1940.

Women's Rights.—No. VI amends the Hindu Women's Rights to Property Act, 1937, in terms similar to those in other Provinces.

Police.—By an addition to the Police Act of 1861 No. VII authorizes the Inspector-General of Police to constitute a special branch of the Police Force to be called the Special Armed Constabulary.

Local Authorities.—Elections are postponed by No. X.

Tobacco.—Amendments of the Tobacco Act, 1939, by No. XIII relate to the prohibition of dealing without licence and the grant of licences for sale of tobacco by wholesale or retail.

9. ASSAM

[*Contributed by* N. L. HINDLEY, ESQ.]

1941

DURING the year nine Acts were passed by the Assam Legislature:—

Agricultural Debtors.—Act I provides for the temporary postponement of execution of certain decrees for the relief of indebtedness of agricultural debtors.

Drainage.—Act VII provides for the construction, removal and upkeep of embankments and for the drainage and improvement of lands in Assam.

Income Tax.—Act IX fixes the rates at which agricultural income shall be taxed under the Assam Agricultural Income-tax Act, 1939 (IX of 1939).

1942

THE Constitution was suspended from December 25, 1941, and revoked with effect from August 25, 1942. During this period the Governor of Assam by a Proclamation under s. 93 of the Government of India Act, 1935, assumed himself all powers vested by or under the said Act in the Provincial Legislature and made the following Acts:—

Legislature.—Act I provides for the temporary repeal of the Assam Legislative Chambers' Officers' Salaries Acts, 1937 and 1941, and Members' Emoluments Act, 1938.

Elections.—Act II provides for the postponement of Local Board Elections.

Income Tax.—Act IV fixes the rates at which agricultural income shall be taxed under the Assam Agricultural Income-tax Act, 1939 (Act IX of 1939).

10. NORTH-WEST FRONTIER PROVINCES

BY Proclamation under s. 93 of the Government of India Act, 1935, the Governor of the North-West Frontier Provinces assumed to himself all the powers vested by or under the Act in the Provincial Legislature and enacted eight Acts.

Local Authorities.—The principal measure was Act V which dealt with the conduct of members of local authorities. It provides that before the Provincial Government notifies the removal of a member the reasons shall be communicated to him, and he shall be given an opportunity of rendering an explanation in writing. It also deals with members or officials who have an interest in contracts to which the authority is a party and whose misconduct or neglect leads to loss, waste or misapplication in local funds.

The Act also deals with the powers of the Revenue Commissioner and Deputy Commissioner and control of the Provincial Government over them.

Women's Rights.—Act VI is similar to the measures passed in other Provinces to give better rights to women in respect of agricultural lands as well as other kinds of property.

Adolescent Prisoners.—By an explanation substituted by Act VII in the North-West Frontier Provinces (Adolescent) Prisoners Release on Probation Act, 1940, adolescent prisoner means a prisoner under the age of 25 years and confined in the Adolescent Training Centre of a prison in the North-West Frontier Provinces.

11. ORISSA

[*Contributed by* W. W. DALZIEL, ESQ., C.I.E.]

1941

DURING the year 1941 six Acts were enacted by the Governor of Orissa in exercise of the legislative powers assumed to himself by Proclamation under s. 93 of the Government of India Act, 1935.

Land Tenure.—Act I of 1941 (The Orissa Tenancy (Amendment) Act, 1941) provides that in any case of transfer of an occupancy holding or a portion or share thereof in a Government estate, of which rent is payable direct to Government, the notices required to be served on the landlord under the Orissa Tenancy Act, 1913, shall not be accompanied by any fee for the service thereof, and need

not be served by the Collector on the Provincial Government as landlord.

Act VI provides that any transferee who obtained a transfer of an occupancy holding or a portion or a share therefore before the commencement of the Orissa Tenancy (Amendment) Act, 1938, shall be liable to pay the fees lawfully payable by him at the time of the transfer within four years from the coming into force of that Act or the date of the landlord's knowledge of the transfer, whichever is later. It further enacts that the provisions of the Orissa Tenancy Act, 1913, applicable to arrears of rent and suits and proceedings for the recovery thereof shall, as far as may be, apply to anything payable or deliverable in respect of any registration fees prescribed in s. 31 (*b*). It further enacts that the aforesaid provisions shall have retrospective effect on and from November 1, 1938.

Act IV provides for temporary protection of the occupancy right of ryots in whole Inam villages and directs stay of proceedings in ejectment of such tenants up to March 31, 1942, pending enactment of a law on the subject after careful consideration.

Census Expenses.—Act II confers power on the Provincial Government to direct that the whole or any part of the expenses incurred under the Indian Census Act, 1939, may be charged to any local fund constituted for the areas within which such expenses were incurred.

Hindu Religious Endowments.—Act III enacts that the trustee or any person having interest may institute in the Court a suit to modify or set aside the order of the Commissioner on the proposals submitted by the trustee of a temple for fixing the dittam or scale of expenditure in the temple, and provides that, subject to the result of such a suit, the order of the Commissioner shall be final. It omits the provision that the costs, expenses and contributions payable by a math or temple shall be assessed by a revenue officer of a gazetted rank appointed by the Provincial Government in this behalf. It lays down the procedure to be followed by the Provincial Government in making rules under the Act. It further provides that the amendments hereby enacted shall be read and construed as if they had formed part of the Principal Act from its commencement.

Stamp Duty.—Act V unifies the rates of stamp duty chargeable in different parts of the Province of Orissa. It repeals the Madras Stamp (Amendment) Act, 1922, in so far as it applies to Orissa save in so far as it affects the amount of duty chargeable in respect of bills of lading. It provides for the payment of the higher rate of duty chargeable thereunder on copies, counterparts or duplicates when that duty has not been paid on the principal or original instrument, and bars the admissibility in evidence of any instrument, counterpart, duplicate or copy unless the duty chargeable under the Act has been paid thereon. It confers a discretionary power on a Court before which any such instrument, counterpart, duplicate or copy is produced to permit the duty chargeable to be paid and then to receive it in evidence. It further provides that where any instrument has become chargeable in any part of British India other than the Province of Orissa with duty under the Indian Stamp Act, 1899, or under any other law for the time being in force in any part of British India and thereafter becomes chargeable with a higher rate of duty in the said province, the amount of the duty chargeable on such instrument shall be affixed thereto in the same manner, and at the same time and by the same person as though such instrument were an instrument received in British India for the first time. It further enacts that no certificate or endorsement under the Indian Stamp Act, 1899, in respect of any instrument chargeable in the Province of Orissa with a higher rate of duty shall be received in evidence or be in any way valid in respect of the payment of duty on such instrument unless the higher rate of duty has been paid thereon. It inserts a schedule providing for the proper stamp-duty on certain instruments.

In the year 1941 nine Orissa Regulations were made under s. 92 (2) of the Government of India Act, 1935.

Income Tax.—Regulation No. I provides that s. 1 and Part I of the Income Tax (Amendment) Act, 1939, shall be deemed to have come into force in the partially excluded areas of the Province of Orissa from April 1, 1939, and Part II of the Act shall be deemed to have come into force in the said areas on the date appointed by the Central Government for its coming into force throughout British India generally.

Regulation No. II provides that the Income-tax Law Amendment Act, 1940, shall be deemed to have come into force in the partially excluded areas of the Province of Orissa on the date appointed by the Central Government for its coming into force throughout British India generally.

Excess Profits.—Regulation III enacts that the Excess Profits Tax Act, 1940, shall be deemed to have come into force in the partially excluded areas of the Province of Orissa on the date appointed by the Central Government for its coming into force throughout British India generally.

Finance.—Regulation No. IV provides that the Indian Finance Act, 1938, shall be deemed to have come into force in the partially excluded areas of the Province of Orissa on the date appointed by the Central Government for its coming into force throughout British India generally.

Regulation No. V provides that the Indian Finance Act, 1939, shall be deemed to have come into force in the partially excluded areas of the Province of Orissa on the date appointed by the Central Government for its coming into force throughout British India generally.

Regulation No. VI provides that the Indian Finance Act, 1940, shall be deemed to have come into force in the partially excluded areas of the Province of Orissa on the date appointed by the Central Government for its coming into force throughout British India generally.

Judicature.—Regulation No. VII defines the nature of suits, appeals and proceedings which shall be tried by the Agency Subordinate Judge of the Ganjam and Koraput Districts. It provides that all suits cognizable by the Agency Divisional Officer having jurisdiction may be instituted in the Court of the Agency Subordinate Judge.

1942

DURING the year 1942 five Acts were passed by the Orissa Legislative Assembly.

Land Tenure.—Act I provides for temporary protection of the occupancy right of ryots in whole inam villages and directs stay of proceedings in ejectment of such tenants up to March 31, 1943, pending enactment of a law on the subject after careful consideration.

Co-operative Societies.—Act II empowers the Registrar of the Co-operative Societies, Orissa, to dissolve, after consulting the financing body, if any, the managing committee of any registered society, if in his opinion such committee is mismanaging the affairs of the Society or if such society at a general meeting resolves that the managing committee be superseded. On the dissolution of the managing committee the Registrar can appoint a suitable person or persons to manage the affairs of the society for a specific period not exceeding three years, which may be extended from time to time up to six years. The person or persons so appointed by the Registrar shall have all the powers of the managing committee or of any officer of the society and power to take such action as may be required in the interests of the society. The Registrar may fix the remuneration of the person or persons so appointed, who shall, at the expiry of the period of his or their tenure, arrange for the constitution of a new managing committee in accordance with the by-laws of the society. Lastly, the Act validates the appointments already made of persons as Agents and Sub-Agents of the Registrar.

Act V provides that for the purposes of recovery of certain sums societies registered in the Province of Madras shall be deemed to be societies registered in the Province of Orissa.

Local Authorities.—Act II empowers Government to extend the term of office of the present members and office bearers of local authorities in the Province of Orissa, not beyond six months after the termination of the present hostilities.

War Service.—Act IV, while repealing Orissa Act VII of 1940 (The Orissa Legislative Assembly (War Service) Act, 1940) (which would have even otherwise ceased to have effect from December, 1942), re-enacts that a person shall not be disqualified for being chosen as or for being a member of the Orissa Legislative Assembly by reason of his being a member of His Majesty's Forces or of his being enaged in any employment certified by the Governor of Orissa to be directly concerned with the prosecution of the war.

Regulations.—In the year 1942 three Orissa Regulations were made under s. 92 (2) of the Government of India Act, 1935.

Post Office.—Regulation No. 1 provides that the rates chargeable for the time being in the rest of British India shall be the rates chargeable in all the partially-excluded areas of the province of Orissa unless and until the requisite notification is issued by the Government of India.

12. SIND

[*Contributed by* JUDGE TIKAMDAS D. MOTWARI.]

1941

THE Sind Legislative Assembly held three sittings, one in February, second in June, and the third in December, 1941. Twenty-one Acts dealing with the following subjects were passed during the year.

Legislature.—Act III repeals Sind Act I of 1937, and changes the existing rates of Salaries and Travelling Allowances of Ministers which have been found inadequate.

Act IV enhances the salary of the Speaker.

Act XV of 1941 amends the Sind Legislative Assembly Members' Salaries and Allowances Act, 1938.

Local Self Government.—Act XIV validates the elections for the purpose of filling the places of members of certain district local boards in the Province whose terms of office expired on March 31, 1941.

Irrigation and Land Revenues.—Act VIII inserts new s. 82A in the Bombay Land Revenue Code reg. ; partition of occupancies sold on instalment terms.

Act IX makes provision for the setting up of Debt Conciliation Boards for the settlement of claims against agriculturists.

Act XIX amends s. 92 of the Bombay Irrigation Act, 1879. It also inserts new s. 92A regarding revision of sums due under c. (*c*) of sub-s. (4) of s. 92 and payment thereof.

Judicial.—Act XXI inserts new s. 44A in the Inland Steam Vessels Act, 1917, regarding power of Court to award costs of investigation under Chapter IV of the Act.

1942

THE Sind Legislative Assembly held one sitting, in March, 1942. Four Acts, of which three dealt with local government matters, were passed during the year.

Judicial.—Act I provides for suppressing criminal activities of persons commonly known as Hurs or Lurs in the Province of Sind.

13. COORG

[*Contributed by* The Chief Commissioner.]

Sale of Land.—In a certain sale of lands for the recovery of arrears of assessment the purchaser failed to pay the earnest money immediately after the sale. He stated that he could pay it at any time on the day of sale as provided under s. 98 of the Coorg Land and Revenue Regulation, 1899 (I of 1899), and that it was not necessary to pay it immediately the hammer was down. As he failed to pay the amount immediately and there was doubt about the payment before 5 p.m., the Subedar who conducted the sale resold the lands immediately. This sale was objected to on the ground that a resale consequent on the purchaser's default to pay the earnest money under s. 98 of the Regulation could not be held unless a sale notice was issued and promulgated as provided under s. 105.

The term "on the day of sale" in s. 98 (1) could have meant any time before sunset or at least any time before the closing of the office. S. 98 (2) provides for the resale of the land for the purchaser's failure to pay the amount on the day of sale; but the provisions of s. 105 (as it stood before amendment by the present Act No. 1) made it obligatory to issue and promulgate a fresh notice before conducting a resale. There was nothing to forbid the defaulter from repeating what he did before. He could bring a bogus purchaser every time his property was brought to sale, see that he bid and pleaded for time till 5 p.m. to pay the earnest money, and then omit to pay. Thus he could have rendered the sales ineffective continuously. There was a remedy to have the loss, if any, in the second sale made good by the purchaser at the first sale, but that recourse would be dilatory and would cause unnecessary delay.

It was to avoid the above defects that this amendment Act was enacted. It may be stated here that provision exists in ss. 179 and 183 of the Mysore Land Revenue Code, 1888, to meet such contingencies.

VIII. EASTERN COLONIES

1. CEYLON

[*Contributed by* W. Ivor Jennings, Esq., Litt.D., LL.D., *Vice-Chancellor University of Ceylon.*]

With the entry of Japan into the war and the fall of Malaya, the Netherlands East Indies, and Burma, Ceylon entered the war zone. The year 1942 therefore saw a great deal of emergency legislation. For the most part Defence Regulations were the instrument, but some emergency legislation was passed by the State Council. Sixty-two Ordinances were passed, of which 8 might be classed as local or private. Of the 62 Ordinances, 2 were passed by the Governor under his special powers.

Emergency Legislation.—War Insurance schemes were authorized in respect of goods (No. 1), business and personal movables (No. 9), sea-borne cargoes (No. 46,) and immovable property (No. 62). A personal injuries scheme was also authorized (No. 4). Generally the legislation followed that in the United Kingdom. A Rent Restriction Ordinance was passed (No. 60) to prevent an increase in rents during the war period. The Defence Force Ordinance was twice amended (Nos. 7 and 22), and provision was made (No. 50) for the exemption from customs duty on goods imported for the Imperial Forces and used for the Ceylon Defence Force. The finance of the country was also put more nearly on a war footing. Home Defence Loans were authorized by No. 2 and the law relating to Savings Certificates amended by No. 37 An excess profits duty was created by No. 6 and amended by No. 39. The law relating to income tax was

amended by Nos. 12 and 53. Gifts for war purposes were exempted from estate duty by No. 41 and gifts of tea to members of the Allied Forces were exempted from export duty by No. 11. Certain series of currency notes may have fallen into enemy hands and were therefore declared by No. 10 not to be legal tender. An amendment was made (No. 17) in the power to control prices of commodities. A problem which Great Britain has not met was faced by No. 24. A substantial section of the population evacuated from certain areas as the enemy approached, and the schools had to be closed for two months. When they reopened the whole system remained upset and it proved necessary to make additional grants from public funds to keep them going and to employ surplus teachers in emergency work. Special provisions relating to patents, designs, copyright and trade marks were made by No. 32. No. 30 authorized the postponement of local elections. On the whole Ceylon came well through a trying period, during which it appeared that the island would be in the path by which the Japanese would join the Germans.

State Council.—After eleven years, the State Council has at last provided itself with privileges. The original Bill was reserved for the Royal Assent, but was assented to subject to the enactment of amending legislation. Accordingly, the Bill was enacted as No. 27 and immediately amended by No. 28. The purpose of the original Bill was to give freedom of speech to members, to protect persons who published matter on the instructions of the Council, and to regulate entry to the Council Chamber. The amendments were directed mainly to securing that the Council did not exceed the powers claimed by the House of Commons.

Allegations having been made that members of the Council had been offered bribes, the Council requested the Governor to appoint a Commission. It was considered, however, that special provision should be made for the protection of witnesses who might be invited to appear before the Commission. The Bill for this purpose was reserved for the Royal Assent, but was assented to as No. 25, subject to the enactment of an amending Bill, which received the Royal Assent as No. 26.

National Museums.—The Colombo and Kandy Museums have been reconstituted as "National Museums," and provision has been made for the institution of similar museums elsewhere—the first steps are being taken in Galle. The Director, Colombo Museum, becomes Director of National Museums and will be assisted by advisory committees. The property in the museums remains Crown property under the control of the Executive Committee of Education (No. 31).

Town Planning.—A special Ordinance (No. 34) has been passed for the planning of Anuradhapura, the ancient capital of Ceylon. The intention being to remove the modern bazaar from the ancient city, the restrictions are wider and the powers larger than are normally imposed and conferred.

Factories.—The absence of adequate factory legislation was pointed out by the Donoughmore Commission in 1929. A comprehensive Factory Ordinance (No. 45) has now been passed. Registration of factories becomes obligatory, and detailed provision has been made for the health, safety and general welfare of the workers. Provision is also made for the notification and investigation of accidents and industrial diseases and for restrictions on the employment of women and young persons. The administration is in charge of the Controller of Labour as Registrar of Factories, who will be advised by a Factories Advisory Board.

Road Transport.—Like most places in the East, Ceylon had a "system" of decrepit omnibuses run on the basis of cut-throat competition. Under the Omnibus Service Licensing Ordinance, No. 47 of 1942, it has been "rationalized" into a system of monopolies operating under licence from the Commissioner of Motor Transport on approved routes and subject to stringent condi-

tions. The Commissioner acts under the general direction and control of the Executive Committee of Local Administration.

Pawnbrokers.—No. 13 is a comprehensive Ordinance for the regulation of the business of pawnbrokers. A pawnbroker must be licensed and must keep books in prescribed forms. Pledges are redeemable for twelve months and thereafter until sale. Compensation is payable for depreciation of the pledge through the default, neglect or wilful misbehaviour of the pawnbroker. Powers of inspection, examination and seizure are conferred.

University Education.—No. 20 of 1942 establishes the University of Ceylon as an autonomous, unitary and residential University with a seat in or near Kandy—though with power to suspend the residential provisions. The constitution is very similar to that of an English Provincial University, and the University has power to establish Faculties of Oriental Studies, Arts, Law, Science, Agriculture, Commerce and Engineering. Provision is made for the transfer to it of Government property held for the benefit of the Ceylon Medical College (founded 1870) and the Ceylon University College (founded 1921), which have now been incorporated in the University. The Bill was passed while a large Japanese fleet, with four or five aircraft carriers and protecting battleships, was in the Bay of Bengal, and the proceedings were interrupted by an "alert." Two days later Colombo was raided by 100 aircraft.

Land Redemption.—During the depression of 1929–33 a large number of agricultural properties was sold under mortgage decree or sold in order to satisfy a mortgage debt. The Land Redemption Ordinance, No. 61 of 1942, is intended to provide for the restoration of such lands to the original owners. The Land Commissioner, acting under the control of the Executive Committee of Agriculture and Lands, is authorized to acquire agricultural lands with funds provided by the State Council and otherwise and to alienate the land by grant to the original or some other owner of agricultural land. Acquisition is effected under the Lands Acquisition Ordinance as amended *pro hac vice*.

2. ADEN

1942

FIFTY-FIVE Ordinances received assent between January 7 and December 29, and the majority effected minor amendments in the law.

Drugs.—The Dangerous Drugs and Poisons Ordinance of 1937 was repealed by No. 9, which strengthens the control more particularly with a view to making effective the International Opium Convention. A complementary Ordinance (No. 10) dealt with drugs and poisons generally.

Home Guard.—No. 12 authorizes the Constitution of the Home Guard.

Notary Public.—Any officer in the service of the Crown may be vested under the authority of No. 15, with the powers of a Notary Public in reference to the authentication of documents.

Cattle.—Five Ordinances dating back to 1871 and dealing with Cattle Trespass are repealed by No. 17, which re-enacts and brings up to date the law on the subject.

Civil Defence.—By No. 20 the Governor is authorized to form civil defence services. No. 21 provides compensation for personal injuries.

Labour.—Trade Unions and Trade Disputes are dealt with by No. 23 on lines generally adopted in the Colonies. It was amended by No. 43. Contracts of employment with indigenous workers are dealt with by No. 45.

Succession.—By an amendment of No. 9 of 1938 No. 32 regulates the succession among Parsis.

Immigration.—The Indian Act III of 1924 is repealed by No. 34 which provides the requirements for the Colony in reference to immigration.

Clubs.—The Registration of Clubs is required by No. 44.

3. MAURITIUS

[*Contributed by* C. A. Hooper, Esq.]

Twenty-nine Ordinances were passed by the Council of Government and assented to by the Governor between January 6 and November 7, 1942. The majority of these Ordinances deals with matters of domestic concern, amongst which the following are of considerable importance.

Shops.—No. 3 regulates the opening and closing time of shops and the conditions of employment for shops' personnel.

Sugar.—No. 16 provides for the constitution and working of a Sugar Planters' Syndicate for the marketing of the Colony's Sugar Crop for a period of five years to date from the crop year 1942–1943.

No. 19 imposes a special export duty on the sugar crop for the year 1942–1943, the proceeds of which duty are to be paid over to His Majesty's Government as a gift from the Planters Community of the Colony in aid of the prosecution of the war.

Notaries.—No. 28 consolidates and brings up to date the law governing the exercise of the profession of Notary Public in the Colony.

Companies.—No. 18 imposes a surtax on incomes of Companies in addition to Poll Tax.

Currency Notes.—No. 21 amends the Mauritius Currency Notes Ordinance, 1934, by allowing currency notes of Rs.1,000 denomination to be accepted as legal tender for financial transactions between the local banks and Government.

War Injuries.—No. 12 provides for the grant of compensation to civil defence workers suffering from war injuries.

War Risks Insurance.—No. 24 provides for the insurance of goods against King's Enemy Risks during the present war.

IX. WEST AFRICA

1. GAMBIA

Seventeen Ordinances were passed in the year.

Medical Practitioners and Dentists.—All Medical Officers and Dentists in the Armed Forces are given by No. 2 the privileges of persons registered under the Colony's Ordinance of 1906.

Motor Traffic.—Any person who drives or causes to be driven a motor vehicle on a highway without due care and attention or without reasonable consideration for other persons using the highway is guilty of an offence under No. 7.

Pensions.—The object of No. 8 is the same as ordinances passed in other Colonies to preserve the pension rights of any European Civil Servants on War Service.

Income Tax.—Nos. 1 and 10 make amendments in the principal Income Tax Ordinance of 1940. The former deals with allowances for children, insurance premiums, etc., and the latter covers the apportionment when part only of the income is derived from employment in Gambia.

Compulsory Service.—The object of No. 11 is to enforce compulsory service in Gambia on the lines in operation elsewhere.

Rates.—The Governor is authorized by No. 12 amending the Rates Ordinance of 1933 to receive or remit the payment of any rate on account of the poverty of the person liable.

Public Health.—No. 14 provides for compulsory inoculation against Yellow fever.

Defence Force.—No. 18 authorizes the establishment of military units.

Workmen's Compensation.—By amending the Workmen's Compensation Ordinance, 1940, No. 16 includes war injuries within its provisions.

2. GOLD COAST

[*Contributed by* RAYMOND BROWNE, *Solicitor-General.*]

DURING the year 1942 thirty-five Ordinances were passed, of which 31 were amending Ordinances. The only original Ordinance of general interest is the Military Units Ordinance, 1942 (No. 5 of 1942), which empowers the Governor to raise units of specialized troops and thereafter for purposes of administration to place them under the orders and directions of the Army Council or the Air Council according to their nature.

During 1942 use has been made in matters of an urgent or temporary nature of the power of legislation conferred upon the Governor by the extension to the Gold Coast of the United Kingdom Emergency Powers (Defence) Acts. The most important examples of this type of legislation are:—

(*a*) The Defence (Civil Defence) Regulations, 1942 (No. 9), which legislates for civil defence against the possibility or effects of enemy action;

(*b*) The Defence (Military Advocates) Regulations, 1942 (No. 52), which permit the appearance of a commissioned officer with legal qualifications in civil Courts in defence of a member of the Armed Forces accused of a crime; and

(*c*) The Gold Coast Home Guard (Amendment) Regulations, 1942 (No. 57), which introduce compulsory service in the Gold Coast Home Guard.

3. NIGERIA

TWENTY-EIGHT Ordinances were passed in the year.

Pensions.—The object of No. 3 is to establish a provident fund for certain non-pensionable servants of township local authorities.

Education.—Eight Ordinances were repealed by No. 9 and re-enacted with extensions of the system of education.

Hides.—Authority is given by No. 10 to the Governor to make regulation for maintaining and improving the quality of hides and skins in the Northern Provinces and for regulating the trade and export. No. 14 has a similar purpose for the Colony and Southern Provinces.

Dogs.—Previous legislation is repealed by No. 15 which now contains the provisions relating to the licensing of dogs and the suppression of rabies.

Arms.—The Arms Ordinances of 1922 and 1927 are repealed by No. 20 which now contains the provisions regulating matters relating to arms and ammunition.

Oaths.—No. 25 is a new measure repealing and amending the existing law relating to oaths and affirmations.

Criminal Code.—Amendments of the Criminal Code contained in No. 26 deal with seditious and undesirable publications.

Police.—Five former Police Ordinances are repealed by No. 27 which now contains the law relating to the Force.

Customs.—The Customs Ordinance of 1941 is repealed by No. 28 which sets out completely the proceedings in relation to the collection of customs duties.

4. SIERRA LEONE

[*Contributed by* G. J. HORSFALL, ESQ., *Crown Counsel.*]

THIRTY Ordinances were passed in 1942. Twenty-four were amending Ordinances, two related to supply and four were new Ordinances.

Inoculation Against Yellow Fever.—No. 6 provides for the compulsory inoculation of adults and children living in such areas in the Colony and Protectorate as the Governor may determine. During the year an Order was made applying to all persons, other than persons of African descent domiciled in West Africa, residing in or employed in the Police District of Freetown.

Defence Lands Acquisition.—No. 9 provides consolidating legislation for the acquisition of land for defence purposes by all the State Departments concerned with defence.

Water Control.—No. 19 provides for the conservation and better utilization of the natural water supplies in Sierra Leone. Extensive schemes for drainage and irrigation were in preparation and are now in execution. The Ordinance provides machinery for carrying out these schemes and for paying compensation to persons injuriously affected.

Domestic Loans.—No. 25 provides for the raising of a loan for the expansion of the Sierra Leone Government electricity undertaking.

Stamp Duty.—Of the amending Ordinances, perhaps the most curious is No. 17, which amends the Stamp Duty Ordinance, 1924. The Military Authorities desired that soldiers charged with criminal offences should be defended by members of the Forces who have legal qualifications. In view of the fact that military personnel in Sierra Leone is constantly changing, it was considered expedient to relieve the Military Authorities from payment of stamp duty on certificates of admission to practise as barristers and solicitors when taken out for the above purpose. This Ordinance will expire with the Emergency Powers (Defence) Act, 1939, and does not exempt any person who charges fees.

Subordinate Legislation.—196 measures of subordinate legislation were enacted during the year. They included numerous defence measures, dealing with topics ranging from price-control to restricting the use of petrol tins covered with an alloy of tin and lead. In the past it had been customary to use tins for domestic purposes, and the war-time variety had been found injurious to health. Civil Defence Regulations were enacted in view of the possibility of active hostilities coming to Sierra Leone. They established six emergency services, of which the Fire Service remains active, rendering assistance to the regular Fire Brigade, whose sphere of activity has increased with the war-time development of Freetown.

X. EAST AFRICA

1. KENYA

[*Contributed by* Hon. T. A. Brown, *Solicitor-General, Kenya.*]

The following is a summary of the more important of the 33 enactments passed during the year 1942:—

His Majesty's Forces (Control by Army Council).—By No. 1 all military forces established under any law in force in Kenya are, for all purposes connected with the defence of the Colony and the prosecution of the war, placed under the orders and directions of the Army Council.

Production of Crops.—No. 7 provides for the increased production of crops in the Colony with Government assistance. It empowers the Agricultural Production and Settlement Board to serve an order upon any farmer requiring him to carry out certain farming operations in connection with the production of crops, and it provides that a farmer upon whom such an order has been served shall be guaranteed by the Government a minimum return per acre. It further provides that where a farmer has been ordered to break virgin land he may be given a grant by the Government which varies with the nature of the crop planted.

Land Bank.—The two principal objects of No. 8 are—(*a*) to empower the Bank to make advances not exceeding £300 for the purpose of purchasing livestock or agricultural machinery and implements; and (*b*) to widen the Bank's powers of discretion in the financing of perennial crops and so regularize subsequent advances which in its opinion are required to be made to protect the Bank's interest.

Asiatic Widows and Orphans Pension.—No. 9 closes the Asiatic Widows

and Orphans Pension Fund, which was established in 1927, to new entrants to Government service, and No. 10 institutes a new fund to provide for the granting of pensions to widows and orphans of the new entrants who are not eligible for membership of the old fund. Actuarial examination has shown that the benefits provided under the 1927 Fund are out of proportion to the rate of contributions, and the contributions to be made by members of the 1927 fund have been increased from 4 per cent. of the officer's salary or pension to 5 per cent.

Excise Duties.—No. 14 introduces excise duty stamps which are considered to be a more convenient means of providing for the payment of duty on cigarettes and manufactured tobacco.

Pharmacy and Poisons.—No. 15 replaces the existing law relating to drugs and poisons, and is based upon the English Pharmacy and Poisons Act of 1933.

Native Poll Tax.—No. 21 provides for the payment by natives of a poll tax instead of the hut and poll tax.

Native Trust Fund.—No. 22 (*a*) repeals and re-enacts, with modifications, the provisions of the existing law; (*b*) provides for the payment into the fund of a certain proportion of moneys collected as poll tax under the last preceding Ordinance, and (*c*) provides for the disbursement of such moneys, and other moneys, in the fund.

Taxi Cabs.—No. 25 gives the municipal authorities powers to regulate the number of taxicabs that can ply for hire within their respective areas of jurisdiction.

Penal Code.—No. 26 raises the age limit at which sentence of death may be passed from 16 to 18 years.

Standing Advisory Committee for Local Native Councils.—No. 30 makes statutory provisions for the preparation of Local Native Council estimates and their submission to the Governor in Council through a Standing Advisory Committee for Local Native Councils. The Committee consists of the Chief Native Commissioner, as chairman, the Financial Secretary, two members of the Legislative Council representing native iterests in the Legislative Council and five Africans nominated by the Governor. The primary function of the Committee will be to examine Local Native Councils draft estimates of revenue and expenditure and furnish its advice on them to the Governor in Council.

2. NYASALAND

[*Contributed by* H. G. MORGAN, ESQ., K.C., *Attorney-General.*]

IN 1942 13 Ordinances were enacted by the Governor with the consent of the Legislative Council of the Nyasaland Protectorate.

Poll Tax.—The objects of the Non-Native Poll Tax (Amendment) Ordinance (No. 1) are to provide:—

(i) That the tax must in all cases be paid by March 31 in any year or within three months of entering the Protectorate, as the case may be ;

(ii) That the double tax will be automatic on failure to pay ;

(iii) That remission of the tax will be made on the ground of poverty only ; and

(iv) That applications for remission must be made within one month of the applicant becoming liable to pay the tax.

Forests.—The object of No. 2 is to repeal and replace the existing Forest Ordinance. This step had become necessary for two main reasons:—

(i) The change in status of various classes of land brought about by the Nyasaland Protectorate (Native Trust Land) Order in Council, 1936 ; and

(ii) The need for the gradual devolution of responsibility for forest protection and management on to Native Authorities, and for their participation in a share of forest revenue.

Accordingly the Ordinance seeks to harmonize the regulation of forest reserves and forest produce with the provisions of the Order-in-Council without unduly hampering administration, control, and protection of forest reserves and forest produce.

Pharmacy and Poisons.—The object of No. 3 is to bring offences against s. 31 of the Ordinance within the provisions of s. 36 of the principal Ordinance.

Prisons.—The objects of No. 4 are :—

(*a*) to deprive Visiting Justices of jurisdiction in offences committed by subordinate prison officers ;

(*b*) to prescribe by Rules the punishments which may be awarded in respect of offences committed by prisoners ; and

(*c*) to remove the provisions requiring oaths to be administered when breaches of prison discipline are investigated by a Superintendent of a prison or by Visiting Justices.

Townships.—The object of No. 5 is to provide for the same penalties for breaches of the provisions of by-laws made by Town Councils, whether the offender be a native or non-native.

Armed Forces.—The object of No. 6 is to remove any doubts as to the control the Army Council may exercise over Military Forces established in the Protectorate when such forces or the members thereof are outside the Protectorate.

War Damage Compensation.—The object of No. 7 is to remove the provision of the principal Ordinance which allows compensation for consequential damage, and to bring the Protectorate's legislation into line with the corresponding legislation in the United Kingdom.

Income Tax.—The object of No. 8 is to empower the Governor in Council to make rules providing for the deduction from an individual's chargeable income of the expenses incurred in connection with the holidays of himself and his family.

The amendment to s. 8 (*g*) of the Ordinance exempts from tax, gratuities granted to members of His Majesty's forces in respect of services rendered in time of war.

Employment of Women, Young Persons, and Children.—The objects of No. 9 are :—

(*a*) to prohibit absolutely the employment of children under the age of 12 years in industrial undertakings ;

(*b*) to ensure that where a young person between the age of 12 and 14 years is employed in industrial undertakings, other than undertakings in which only members of his own family are employed, the work that young person will be required to perform will not be heavy.

Tobacco.—The object of No. 10 is to increase the penalties which may be awarded for contraventions of the Tobacco Ordinance and the rules made thereunder.

During the same period 164 Government Notices were published.

3. SOMALILAND PROTECTORATE

[*Contributed by* MAJOR PATERSON, *Legal Secretary to the Administration.*]

EIGHT Ordinances were passed in 1942.

Transport Licensing.—No. 4 empowers the Governor to issue sole and exclusive licences to individuals or corporations to operate vehicles for the carriage of goods and passengers in any part of the Protectorate.

Pensions for the Forces.—No. 8 provides for the payment of pensions, gratuities, etc., in respect of the death, disablement or sickness of any member of a unit of His Majesty's Forces raised in the Protectorate. It repeals and

replaces the Somaliland Camel Corps, King's African Rifles, Death or Disablement Gratuities Ordinance, 1935.

4. TANGANYIKA TERRITORY

[*Contributed by* H. H. KINGSLEY, ESQ., *Crown Counsel.*]

THIRTY-SIX Ordinances were passed during the year and of these the more important and their general provisions are set out hereunder.

Compulsory Service.—No. 2 amended the Compulsory Service Ordinance of 1940 in two important respects. Firstly it provided for the conscription of women (a power not yet exercised as far as military service is concerned), and secondly it raised the age of liability for military service from 45 to 55.

Adoption of Infants.—No. 5 provides for the adoption of children in this Territory. The provisions of the Ordinance follow closely those of the corresponding Imperial Act of 1926, the only material difference being that domicile in Tanganyika is not made a condition precedent of capacity to adopt.

War Risks Insurance.—No. 11 makes provision for the establishment of a War Risks Insurance Fund. This fund is common to the East African territories of Kenya, Tanganyika, and Uganda (Zanzibar was originally included but later in the year expressed its desire to be excluded from the scheme of insurance for which this Ordinance provides) and is to be operated by a Board established under s. 3 of the Ordinance to be known as "the War Risks Insurance Board," representative of all interested parties. The effect of the Ordinance is to make insurance against war risk obligatory upon persons trading within the Territory in goods not included in a schedule of exemptions, the value of whose stocks throughout East Africa exceeds £500. Traders, the value of whose stocks is below that figure, are also enabled if they desire to insure under the scheme.

Provident Fund (Government Employees).—No. 13 has as its main purpose the provision of a provident fund for those employees of the Government earning salaries of not less than £3 a month for whom there is no similar provision under existing law.

Rent and Mortgage Interest.—No. 16 is designed to afford protection to tenants against eviction, on grounds other than failure to pay the rent lawfully due or breach of the obligations of the tenancy, by requiring the consent of the Board (that is the Rent Restriction Board which under the 1941 Ordinance the Governor is authorized to establish in townships and other areas) to the institution of proceedings for eviction on such grounds.

Estate Duty.—No. 22 provides for the remission or repayment of estate duty both in the case of members of His Majesty's Forces and of civilians, where death is attributable either to active service against an enemy or, in the case of civilians, to what is described as the operations of war. The power to grant relief is restricted in the case of estates exceeding £7,500.

Chattels Transfer.—No. 25 was introduced at the instance of the Secretary of State and its object is to make more up-to-date and convenient provision for obtaining loans on the security of movable property than is contained in our 1921 Bills of Sale Ordinance and the applied Bills of Sale Acts of the United Kingdom.

Master and Native Servants (Written Contracts).—No. 28 gives effect to the Contracts of Employment (Indigenous Workers) Convention, 1939, governing the conditions of employment of native servants under written contracts by which this Territory is bound.

Native Authority (Local Rates).—No. 29 amends the original Native Authority Ordinance by giving powers to native authorities in selected areas to raise revenue for their treasuries by local rate assessment graduated with reference to the means of individual ratepayers.

5. UGANDA

THIRTEEN Ordinances were passed in the year and consisted mainly of minor amendments.

Armed Forces.—The object of No. 2 is to place the Forces of the Protectorate under the Army Council. No. 8 provides for the payment of pensions, gratuities, and other allowances in respect of the death, disablement, or sickness of His Majesty's Forces serving in any unit raised in the Protectorate.

Estate Duty.—The Estate Duty Ordinance of 1938 is amended by No. 10 so as to provide for the remission of estate duty in case of persons killed in war or when the property passes more than once owing to deaths caused by the war.

6. ZANZIBAR

NINETEEN Decrees were enacted in the year and contained mainly minor amendments.

Armed Forces.—No. 5 placed the military forces under the control of the Army Council. No. 13 amended by No. 16 authorize the payment of pensions and other allowances in respect of death, disablement, or sickness of members of the military or naval forces.

Liquor.—The law prohibiting the possession, sale, manufacture or consumption of native liquor is amended and consolidated in No. 6 amended by No. 14.

Trade Unions.—Amendments of No. 3 of 1941 strengthen the law in connection with intimidation and peaceful picketing in trade disputes.

XI. SOUTH ATLANTIC

1. BRITISH GUIANA

[*Contributed by* THE CROWN COUNSEL.]

THIRTY-FOUR Ordinances were enacted during the year 1942. The principal of these are:—

Labour.—No. 2 provides for the regulation of the relationship between employers and employees and for the settlement of disputes between them. The Ordinance is comprehensive. It provides for the appointment of a Commissioner of Labour and other Labour Officers, the setting up of advisory committees to make recommendations on matters referred by the Governor in case of trade disputes and the regulation of wages and hours of work of employees.

Plant Protection.—No. 3, which repeals the Plant Diseases and Pests (Protection) Ordinance, 1935, was enacted to ensure that there is uniform legislation on the subject in the West Indian Colonies. Its object is the protection of plants from pests and diseases and for this purpose extensive powers are given to various bodies to make Regulations and Orders.

National Service.—No. 4 makes provision for securing and controlling the calling-up of men between the ages of 18 and 55 for national service within the Colony during the present emergency.

Trades Disputes (Essential Services).—No. 5 is designed to prevent the dislocation of essential services by the sudden declaration of lock-outs or strikes during the present emergency. Provision is made that no employer or employee shall declare or take part in a lock-out or strike respectively, unless a report of the existence of a trade dispute is made to the Governor and the latter has not within one month of the receipt of such report appointed an advisory committee under the provisions of the Labour Ordinance, 1942.

Summary Jurisdiction.—No. 6 amends the Summary Jurisdiction (Offences) Ordinance, c. 13. It defines peaceful picketing in contemplation or in furtherance

of a trade dispute and provides that certain acts when done for certain purposes constitute a wrongful interference with rights.

Customs Duties.—Nos. 9, 20 and 33 were enacted with the primary object of reducing the customs duties chargeable in respect of certain articles in common use. This reduction of customs duties forms part of the scheme to control the local cost of living under present war conditions. The articles mainly affected are wearing apparel, foodstuffs, and metals.

Constabulary.—No. 13 amends the Constabulary Ordinance, c. 30, to provide that members of the police force who are released for service with His Majesty's Armed Forces shall have such service included for pension.

Interpretation.—No. 17 amends the Interpretation Ordinance, c. 5. It makes provision for the Governor to delegate such of his statutory duties as he may deem advisable, with the exception of any power conferred upon him by any Ordinance to make Regulations, Rules, or Orders.

Education.—No. 24 amends the Education Ordinance, c. 196, in order to provide a more satisfactory procedure for disciplinary action against teachers than hitherto existed.

Georgetown (Valuation and Rating).—No. 30 provides for a new method of assessing rates and taxes in Georgetown based on the annual rental value of property.

Summary Jurisdiction (Appeals).—No. 31 amends the Summary Jurisdiction (Appeals) Ordinance, c. 16, in order to give power to the full Court of the Supreme Court to increase the sentence imposed by a magistrate where such increase is warranted and where the matter is brought before it by way of appeal.

2. BRITISH HONDURAS

TWENTY-SIX Ordinances were passed in the year and consisted mainly of minor amendments.

Labour.—Provision is made for compensation to workmen in No. 4, amended by No. 18. The registration and supervision of factories with a view to the safety of workers is the subject of No. 9.

Entertainments Tax.—No. 25 introduces an entertainment tax into the colony.

Public Health.—The previous law relating to Public Health matters is consolidated with amendments in No. 26.

3. FALKLAND ISLANDS

ELEVEN Ordinances received the Royal Assent.

Labour.—Three of the Ordinances dealt with labour matters. No. 1 created a Labour Advisory Board on the lines of the British Guiana Ordinance (*supra* p. 123). No. 2 repealed the minimum wage fixing Machinery Ordinance, 1932, and made new arrangements with the same object to correspond with those now generally recognized to be applicable. No. 4 provides for the organization of Trade Unions and the regulation of Trade Disputes to carry out the proposals put forward by the Colonial Office.

Commissions of Enquiry.—No. 3 gives the Governor power to appoint Commissions of Enquiry on the lines which have been found to be useful in other Colonies.

Compensation.—Provision is made by No. 5 for compensation to be paid in respect of action taken by the Governor in the exercise of his Emergency Powers and is primarily concerned with the requisition of land or vessels, vehicles, and aircraft.

Two Finance Ordinances and four effecting minor amendments complete the output of the session.

4. ST. HELENA

[It is hoped to publish a note of the legislation in the next issue.]

XII. WEST INDIES

1. BAHAMAS

FORTY-FOUR Acts were passed in the year. Seventeen were local and personal in character and others contained only minor amendments.

Motor Vehicles.—By an amendment of the Motor Vehicles and Road Traffic Act, 1937, magistrates are authorized by No. 22 to exempt owners in certain circumstances from payment of tax.

2. BARBADOS

Air Base.—No. 1 authorizes the lease to the United States of a certain portion of Man of War Cay, Exami.

Constitution.—The appointment of a Committee to be known as the Defence and Security Committee is authorized by No. 2 to control expenditure relating to the defence and security of the Colony.

Dog Licences.—Previous legislation is repealed and re-enacted with amendments in No. 8.

Export Tax.—No. 12 levies an export tax on certain herbs, seeds and spices.

Wills.—The object of No. 19 is to clarify the application of the Wills Act to the testamentary dispositions of men in the Forces.

3. JAMAICA

[It is hoped to publish the review in the next issue.]

4. LEEWARD ISLANDS

TEN Ordinances were passed in the year.

Trade Unions.—The Trade Union Act, 1939, was strengthened by No. 1, containing new sections dealing with conspiracy in relation to trade disputes, and the removal of liability for interfering with another person's business in connection with a trade dispute.

Air Bases.—No. 2 complements an agreement between the British Government and the U.S.A. relating to the lease of bases in Antigua.

Sunday Trading.—Certain businesses can be opened on Sundays for a limited period by No. 5.

(i) ANTIGUA

EIGHT Ordinances were passed in the year.

Bases.—No. 1, supplemented by No. 4, is complementary to No. 2 of Leeward Islands to confirm the agreement with the U.S.A.

Liquor Licensing.—An addition is made to the Trade Licences and Tax Ordinance by No. 2 to require the owner of licensed premises to exhibit his name conspicuously on the outside of such premises.

Rent Restriction.—No. 5 deals with the subject of rent restriction and authorizes the appointment of Rent Commissioners to put it into operation.

(ii) MONTSERRAT

SIX Ordinances were passed in the year.

Property.—The Land and House Tax Ordinance, 1921, is amended by No. 4 by providing for a notice of intended sale to be served on a defaulter, the sale of property, and the certificate of purchase.

Butchers.—Butchers require to be licensed by No. 5 and to have permits for the slaughter of animals.

(iii) St. Christopher and Nevis

Seven Ordinances were passed in the year.

Shop Hours.—The Shop Ordinance, 1931, is repealed by No. 5, and the law regulating the hours of opening of shops and the employment of assistants is now contained in No. 5.

(iv) Virgin Islands

Three Ordinances were passed in the year to deal with finance and the customs duties.

5. WINDWARD ISLANDS

(i) Grenada

Eight Ordinances were passed in 1942.

Spices.—No. 3 imposes a levy on the exportation of nutmegs and maer.

Daylight Saving.—No. 5 introduces daylight saving into the Colony. The Ordinance came into operation on May 3 and was repealed by No. 7, which ended it on August 1.

Plant Protection.—No. 2 of 1941 is extended by No. 6 so as to cover the eradication of Barbadense Cotton.

(ii) Saint Lucia

[*Contributed by* J. E. M. Salmon, Esq., O.B.E.]

Ordinances passed—22.

Agriculture.—No. 12 provides for the prevention, eradication and control of diseases and pests affecting plants, but sub-legislation under preceding legislation is to continue in force, subject to amendment, or repeal.

Animals.—No. 2 amends the Animals' Diseases Ordinance, No. 3 of 1935. It authorizes the Governor to appoint inspectors.

Criminal Law.—No. 16 abolishes corporal punishment, except for offences: (*a*) by juveniles under 16, (*b*) against prison discipline, (*c*) against ss. 113, 151, 153, 215, 218 and 252 of the Criminal Code, 1920. A magistrate is to report to the Judge and to keep a record of corporal punishment sentences passed by him. Provision is also made as to the number of strokes, instrument, and on what part of the body to be used. A medical officer is to examine and certify that the person is capable of sustaining the punishment, which must be inflicted in the presence of a medical officer. Females are not to be flogged or whipped.

No. 17 also amends the Criminal Code, 1920, as follows: It defines a lottery and provides for offences relating to lotteries. It also gives the Judge discretionary power to order payment of the reasonable expenses of any witness summoned and examined on behalf of the accused at the trial of an indictable offence.

No. 15 amends the Seditious Publications Ordinance, No. 12 of 1920, as amended, by providing that the import may be prohibited by an Order of the Governor in Council, published in the *Gazette*, of publications, which in his opinion are contrary to public interest, including past or future issues of a periodical publication.

Crown Lands.—No. 7 amends the Crown Lands Ordinance, No. 45, 1916 Revision, by providing for the prevention of spoil and injury to the woods, forests, rivers and streams of the Colony.

Labour.—No. 6 amends the Trade Unions Ordinance, No. 20 of 1933. It amends the law of conspiracy in the case of trade disputes.

No. 4 amends the Workmen's Compensation Ordinance No. 7 of 1941 by providing that in case of a temporary disablement, if the incapacity lasts less than four weeks no compensation shall be payable in respect of the first three days.

Legal Practitioners.—No. 3 amends No. 52, 1916 Revision, by providing that (*a*) the Attorney-General of the Windward Islands and (*b*) the Crown Attorney are to be deemed *ex-officio* barristers of the Supreme Court.

Libraries.—The Small Libraries Ordinance, No. 10, provides for a public grant to a small library, as defined in the Ordinance, and otherwise for the operation of such libraries.

Motor Vehicles.—No. 11 amends the Motor Vehicles Insurance (Third-Party) Risks Ordinance, No. 6 of 1941. It exempts certain persons from the obligation to hold insurance and also provides for the refusal of a driver or owner to give his name, address and information and for the liability of the driver or person in charge of a motor vehicle.

Public Health Institutions.—No. 1 amends the Lunatics Ordinance, No. 75, 1916 Revision, which is to be known hereafter as the Mental Hospitals Ordinance. It also provides for the observation of suspected lunatics, voluntary boarders at the Mental Hospital and for urgency orders and forms.

Revenue.—No. 8 amends the Customs Ordinance, No. 109, 1916 Revision. It provides for the warehousing of certain goods by the importer, for the payment of duty, the Treasurer's permission and the forfeiture of goods.

No. 21 amends the Customs Duties Ordinance, No. 11 of 1921, as amended, by enacting conditions for the exemption of war risk insurance premiums from *ad valorem* import duty.

No. 13, Excise Duty (Sugar) (Continuation and Amendment) continues for twelve months from February 5, 1942, No. 1 of 1941. It also amends the duty and penalties.

Statistics.—No. 19 provides for the collection of statistics relating to land and agricultural and industrial undertakings.

United States Bases.—No. 22 amends No. 20 of 1941, United States Bases (Agreement). It provides that any order may be given retrospective effect, as from the date of the agreement.

(iii) St. Vincent

Sixteen Ordinances were passed in the year.

Shop Hours.—The existing Ordinance is repealed by No. 1, which now contains the law regulating the hours of opening of shops and licensed premises as well as the hours of employment of the staff. It was supplemented by No. 15 requiring the provision of sanitary conveniences in shops where women are employed.

Adoption.—No. 6 deals with the adoption of children and provides the conditions under which the Court may make an adoption order.

Labour.—Four previous ordinances in 1934, 1935, 1936, and 1937, dealing with the subject of a minimum wage are repealed by No. 14, which authorizes the creation of a Department of Labour with a Labour Commissioner to carry out the new law on the subjects.

6. TRINIDAD AND TOBAGO

[It is hoped to publish a survey in the next issue.]

XIII. MEDITERRANEAN

1. GIBRALTAR

[*Contributed by* W. J. LOCKHART-SMITH, ESQ., *Attorney-General.*]

SEVENTEEN Ordinances were enacted during the year 1942, of which six, namely, Nos. 1, 4, 5, 8, 9 and 11 were themselves repealed by No. 16 in the Supplies (Emergency Control) Ordinance. Eight effected amendments to existing legislation.

The following Ordinances were the more important:—

Aliens and Strangers.—No. 12 enables the Governor to deport to such place as he may think fit any alien whom he may have ordered to quit the Colony.

Estate Duties (Emergency Relief).—No. 17 has been enacted to give relief from estate duty in the case of certain members of His Majesty's Forces killed in war.

Revised Edition of the Laws (Annual Supplements).—No. 13 repeals the Ordinance of 1936 which required the preparation of an Annual Supplement to the laws.

Supplies (Emergency Control).—No. 16 consolidates, with certain amendments, the law in respect of the export, import and control of supplies during any public emergency, hitherto contained in Nos. 1 and 14 of 1939, which had themselves been subjected to considerable amendment.

2. CYPRUS

[*Contributed by the* HON. STELIOS PAVLIDES, K.C., *Acting Attorney-General.*]

DURING the year 1942 there were enacted 33 laws, the more important of which were the following:—

Income Tax (Amendment).—Law No. 1, mainly making provision for deductions for children and in respect of life insurance and contributions to pensions and other funds in ascertaining the chargeable income of an individual. This law also increased the scale of rates of income tax.

Government Seed Loan.—Law No. 4, enabling the Director of Agriculture to advance to cultivators seed for sowing or planting under an agreement for repayment in kind or in money; repayments in kind involve the delivery of an additional quantity of one twentieth of the quantity of seed advanced by way of interest.

Commissions of Enquiry.—Law No. 8, enabling the Governor to appoint Commissions of Enquiry to consider such questions as may be referred to them and to report thereon to the Governor.

Rent Restriction.—Law No. 16, restricting the increase of rent for premises in a rent restriction area which is defined to mean an area within a radius of five miles from the municipal offices of a Municipal Corporation and any other area declared by the Governor in Council to be a rent restriction area.

The test date was fixed retrospectively to March 1, 1941, and the law provides for the appointment of a Rent Assessment Board which may allow an increase of rent of not more than 10 per cent.; also where the landlord has incurred, since the relevant date, expenditure on improvements of the premises an increase of not more than 8 per cent. Ejectments are permitted only in cases of waste by the tenant or on the ground that the owner requires the premises for occupation by himself or for effecting substantial alterations thereto.

Shop Assistants.—Law No. 21, regulating shop hours and the hours of employment of shop assistants. Provision is made limiting the hours during which a shop may remain open, and subject to certain exceptions all shops shall be closed on Sundays and at 1 p.m. on one week-day in every week. The number of hours of employment is restricted to 55 hours a week, excluding meal-times.

Estate Duty.—Law No. 28, providing for the imposition and collection of estate duty. The duty is in accordance with a scale of rates set out in the Schedule, and no duty is chargeable on estates of a value of £500 and under. The law provides for the usual reliefs in respect of British estate duty and in respect of quick successions.

Workmen's Compensation.—Law No. 30, so far compensation was payable in Cyprus only in connection with employment in mines. This law, subject to certain exceptions, makes provision for compensation to workmen generally whose remuneration is £250 a year and under. The law contains provisions familiar to legislation on the subject, and it will come into operation on a date to be fixed by the Governor when the special law relating to compensation to mine-workers will be repealed.

XIV. MIDDLE EAST

1. PALESTINE

[It is hoped to include a review in the next issue.]

2. TRANS-JORDAN

[*Contributed by* A. L. GARDINER, ESQ., *Judicial Adviser.*]

THIRTY-FOUR laws were passed during 1942. Of these 14 were financial and 17 amended existing legislation. The three remaining laws were as follows:—

Finance.—The Committee for the Control of Imports, Exports and Transfer of Currency Law. Under the Defence legislation a Committee had been established to control imports, exports and currency; and No. 3 gives power to levy certain fees to cover the expenses of the Committee.

Passport.—The Passport Law of 1929 had been much amended and No. 5 is a consolidating and amending law.

Trans-Jordan Frontier Force.—The Trans-Jordan Frontier Force operates both in Palestine and Trans-Jordan, and was governed by a Palestine law of 1926, which had been applied to Trans-Jordan. In 1940 and 1941 Palestine issued new laws taking the place of the law of 1926, and No. 11 gives effect to the new Palestine legislation.

Four cases were decided by the Diwan Khas during the year, all being of purely local interest.

The issue of Regulations and Orders under the Defence Law on the lines of Defence Legislation in Palestine continues.

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